

TOWN OF CAMBRIA TOWN BOARD

August 13, 2009

The regular meeting of the Town of Cambria Town Board was held on the 13th day of August 2009 at 8:00 pm at the Town Hall, 4160 Upper Mountain Road, Town of Cambria, New York

BOARD MEMBERS PRESENT:

Wright H. Ellis, Supervisor
Robert E. Blackman, Councilman
George J. Bush, Councilman
Debra L. Kroening, Councilwoman
Joseph Ohol, Councilman

ALSO PRESENT:

Jon T. MacSwan, Highway Superintendent
Lou Ann Murawski, Town Clerk
Sally Marotta-Reed, Recreation Department
Robert Roberson, Attorney
Robert Klavoon, Wendel Duchscherer
William Amacher, Planning Board Chairman
13 interested individuals

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

PUBLIC HEARING – TOWN OF CAMBRIA, LOCAL LAW NO. 1-2009

The Town Clerk read the following public hearing notice, posted on August 4, 2009:

PLEASE TAKE NOTICE that the Town Board of the Town of Cambria will conduct a public hearing at the Town Hall, 4160 Upper Mountain Road, Town of Cambria, New York, on the 13th day of August, 2009 at 8:00p.m. to hear and consider the adoption of a proposed Local Law entitled

“Town of Cambria, Local Law No. 1-2009”

A Local Law to Regulate Wind Energy Systems within the Town of Cambria, New York”

A description of the Local Law contents:

- Section 1 - Definitions
- Section 2 - Commercial Wind Energy Systems
 - A. - Placement
 - B. - Applications
 - C. - Special Use Permits
 - D. - Findings
 - E. - Granting of Special Use Permit
 - F.- Monitoring
 - G. - Application fees and costs
 - H. - Transfer of systems
 - I. - Payment in lieu of taxes or Host Community Agreement
 - J. - Insurance
 - K. - Right to provide for no tax exemption
 - L.- Unsafe and inoperable commercial wind systems
 - M. - Decommissioning and site restoration and bond
 - N. - Public improvement bond
 - O. - Amendment to Special Use Permit
- Section 3 - Non-commercial Wind Energy Systems
 - A. - Placement
 - B. - Applications
 - C. - Special Use Permits
 - D. - Findings
 - E. - Granting Special Use Permit
 - F.- Applications fees and costs
 - G. - Proof and Insurance
 - H. - Unsafe and Inoperable systems and site reclamation
 - I. - Amendment to Special Use Permits
 - J. - Non-commercial wind energy systems used for agricultural operations
- Section 4 - Meteorological Towers
 - A. - Placement
 - B. - Applications
 - C. - Granting of Special Use Permit
 - D. - Amendments to Special Use Permit
 - E. - Application fees and cost

**TOWN OF CAMBRIA TOWN BOARD
AUGUST 13, 2009 PAGE TWO**

- F.- Proof of insurance
- G. - Unsafe and inoperable tower
- H. - Decommissioning and site restoration bond

Section 5 - Severability clause

Section 6 - Effective date

A copy of the proposed Local Law is on file in the office of the Town Clerk at the above – address where it is available for inspection/copying during regular office hours. All interested parties will be heard at the public hearing to be held as aforesaid.

Supervisor Ellis opened the public hearing, indicating that the Wind Energy Systems Local Law has been in development for just under a year. A moratorium was set for one year and the Planning Board was given charge of developing the ordinance for wind energy systems, working with the Town Engineers and Attorney.

Robert Klavoon, Wendel Duchscherer, indicated there were some minor changes made to the law with regard to a decommissioning plan, clarification of language in the fee schedule and some additional language was added regarding the bonding requirement for renewal fees for special use permits.

Roger Schreder, Upper Mountain Road, questioned the requirements in the proposed local law relating to the Escarpment District. Supervisor Ellis indicated that, according to the Town's Comprehensive Plan, the Escarpment District is a desirable area to protect, particularly for high value residential properties. The proposed local law would permit wind energy systems for agricultural purposes within the Escarpment District. A brief discussion followed.

Matthew Foe, Upper Mountain Road, encouraged the Town Board to reconsider the distance restrictions in the Escarpment District. He feels that if commercial windmills were permitted in this district, the Town could possibly negotiate with windmill companies to generate revenue back to the Town to reduce taxes. A brief discussion followed.

As there were no further comments from the public, the public hearing was closed.

APPROVAL OF MINUTES

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to approve the Minutes of July 9, 2009 and July 13, 2009 Town Board meetings.

Ayes: Blackman, Bush, Ellis, Kroening, Ohol -Motion Carried-

APPROVAL OF VOUCHERS

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

Cemetery Fund	Claims 10-13	\$ 700.24
Drainage Fund	Claims 16-19	\$ 2,554.18
General Fund	Claims 337-395	\$ 57,165.66
Highway Fund	Claims 155-178	\$ 25,740.51
Recreation Fund	Claims 32-60	\$ 7,454.94
Refuse Fund	Claim 8	\$ 29,756.80
Sewer Construction	Claim 2	\$ 6,600.00
Sewer Operating	Claims 36-41	\$ 1,119.98
Trust Agency	Claims 37-39	\$ 51,852.99
Water Construction	Claims 3-4	\$ 5,070.00
Water Operating	Claims 147-172	\$ 8,864.20

Upon a motion duly made by Councilman Bush and seconded by Councilman Ohol, it was resolved to approve the abstract of audited vouchers as presented.

Ayes: Blackman, Bush, Ellis, Kroening, Ohol -Motion Carried-

**TOWN OF CAMBRIA TOWN BOARD
AUGUST 13, 2009 PAGE THREE**

WATER/SEWER SERVICE EXTENSIONS

Supervisor Ellis reported action was taken at the July 9, 2009 meeting regarding the water and sewer service extensions for Comstock and Lockport Roads authorizing bonding and installations. The Town Board is in receipt of the review of the final notice of intent from the Department of Agriculture and Markets which completes the permitting process for the water and sewer service extensions. Those sites are as "shovel ready" as they can be at this point. There will be no further action until financing details are in place.

FEMA FLOOD INSURANCE RATE MAP UPDATE

Robert Klavoon reported they are currently waiting to hear feedback from FEMA as to their determination on the floodplain maps, which is expected sometime in December.

TOWN OF CAMBRIA WIND ENERGY SYSTEMS LOCAL LAW

Supervisor Ellis stated no action will be taken tonight regarding this matter.

EMERGENCY AUTHORITY-SUPERVISOR

Supervisor Ellis indicated that the proposed resolution authorizing the Supervisor to act on behalf of the Town Board in emergency situations would not be acted upon this evening.

Councilman Bush indicated that, in the interest of protecting the residents, he felt the resolution should be acted upon and he made a motion for the adoption of the resolution as follows:

WHEREAS the Supervisor of the Town of Cambria, because of his position as Supervisor, has frequently been called upon during the occurrence of an emergency event to either take action on behalf of the Town and/or town departments or to authorize action to be undertaken by the Town and/or town departments, and

WHEREAS neither the Town Law nor any other state law appears to clearly grant the Supervisor of the Town of Cambria the authority and power to undertake such actions, and

WHEREAS the Town Board of the Town of Cambria deems it necessary and appropriate to formally grant the authority and power to the Supervisor to act on behalf of the Town Board in such circumstances, and

WHEREAS Town Law §29 (16) expressly authorizes the Town Board, by Resolution, to provide the Supervisor with authority, powers and duties to be performed on behalf of the Town Board,

NOW, THEREFORE, BE IT RESOLVED that the Supervisor of the Town of Cambria is hereby authorized and empowered to act on behalf of the Town Board in emergency situations, to take such actions or authorize action to be undertaken by the Town and/or town departments, to address the emergency, to utilize town resources, to expend Town funds, to obtain outside assistance from other governmental units or private resources, whatever the case may be, that, in his judgment, is reasonable, right, necessary, and appropriate to address the emergency and to protect lives and property and to insure safety of the public.

Attorney Roberson explained the proposed resolution was drafted as a result of the situation of the collapsed house on Upper Mountain Road which involved the Highway Superintendent taking a portion of the wall of the house down to prevent it from falling onto the neighboring house. He indicated that he felt it was imperative that the Supervisor be able to act on behalf of the Town in an emergency situation—someone needs to be in authority to act immediately when an emergency arises which involves the protection of the lives and property of residents in the Town of Cambria. He recommended the Town Board adopt the resolution.

Jon MacSwan indicated that he has no legal authority to offer assistance in emergency situations unless authorized. He explained there are times when the Highway Department is called to respond to situations (i.e. barn fire) and he is placed in a position of not offering assistance as he may not have legal authority to have Town equipment on private property to assist.

Councilman Blackman indicated he was originally against the resolution, but has since changed his mind, indicating he felt it makes common sense to vote in favor of the proposed resolution.

Councilman Ohol indicated that he felt the authority in the resolution is too broad and is not in favor the proposed resolution.

**TOWN OF CAMBRIA TOWN BOARD
AUGUST 13, 2009 PAGE FOUR**

Councilwoman Kroening indicated she felt guidelines should be set up clearly specifying what defines an emergency situation. Attorney Roberson indicated that the first responder usually will contact the Highway Superintendent to let him know that they need help or additional assistance in an emergency situation.

Upon a motion made by Councilman Bush and seconded by Councilman Blackman, it was resolved to adopt aforesaid resolution authorizing the Town Supervisor to act on behalf of the Town Board in emergency situations.

Ayes: Blackman, Bush, Ellis Noes: Kroening, Ohol -Motion Carried-

TOWN CLERK REPORTS

The Town Clerk reported receipt of the following:

- Niagara County SPCA Report, July 2009 – Total animal contacts: 52
- Building Inspector's Report, July 2009 – Total Receipts: \$1,280.00; Total estimated value of construction cost: \$470,900.00
- Cambria Volunteer Fire Company is requesting the addition of William T. Wollaber, 3621 Lower Mountain Road to their active roster.

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Bush, it was resolved to approve the request for the inclusion of William T. Wollaber to the active roster for Cambria Volunteer Fire Company, pending receipt of the appropriate physical clearance form.

Ayes: Blackman, Bush, Ellis, Kroening, Ohol -Motion Carried-

HIGHWAY SUPERINTENDENT REPORTS

Jon MacSwan, Highway Superintendent, reported as follows:

- The Highway Department will have the brush chipper out again starting September 1, 2009.
- Mr. MacSwan reported that, there has been 18" of rain reported this summer and with the 3" inches of rain that has fallen over the last week, the drainage work that has been completed has been working well.
- A line item transfer from Snow Contractual 5142.04 to Roads Contractual 5110.04 in the amount of \$10,000 was submitted to the Town Board, which will be applied towards the cost of completing road repairs.

Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to authorize the line item transfer from Snow Contractual 5142.04 to Roads Contractual 5110.04 to reinforce the latter budget line to cover the cost of completion of road repairs, as requested.

Ayes: Blackman, Bush, Ellis, Kroening, Ohol -Motion Carried-

- Mr. MacSwan indicated the Town Board approached him to explore options for Right-to-Farm signage for the Town. There are 28 entrances to the Town from state, county and town roads. The signs are non-reflective and can be attached to posts already in the town and cost \$35 a piece. Councilman Ohol questioned if there was a State law about the color of the sign since it is an informational sign. Mr. MacSwan indicated he would check into the matter.
- Councilman Bush asked about the other generator. Mr. MacSwan responded it was received yesterday and they are working on the pad and conduit; it should be running this fall.

ATTORNEY REPORTS - No reports were presented.

RECREATION COMMITTEE

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

- Approximately 251 children were registered for the Cambria site and 50 children registered for the Pekin site. The six-week program was successful. Feedback from the parents was positive, with many requesting a longer program.

**TOWN OF CAMBRIA TOWN BOARD
AUGUST 13, 2009 PAGE FIVE**

- The Niagara County Department of Health visited the Cambria site and addressed concerns relating to West Nile Virus education, the program's safety plan, etc. She indicated she has an appointment with them to discuss the program and where it needs improvement to meet the Health Department's requirements.
- Mrs. Reed indicated she is continuing to research prices for movie projectors as she would like to initiate family movie nights.

Supervisor Ellis commended Mrs. Reed for a successful year, indicating that he has had positive feedback from the community about the program.

Councilwoman Kroening mentioned she attended the baseball picnic at Pekin Fire Hall last Saturday, which was well attended. The program was run well, with Cambria winning two championships this year.

CONCERNS OF CITIZENS

- Roger Schreader, Upper Mountain Road, indicated to the Highway Superintendent he has been on the list to have his ditch cleaned for three to five years. Mr. MacSwan indicated he would review the ditch petitions and contact him as to the status of his petition.
- William Amacher, Raymond Road, addressed the Highway Superintendent about the deteriorating condition of Raymond Road. Mr. MacSwan indicated he did apply for a grant and hasn't yet heard about the status. He will discuss the matter further with the Wheatfield Highway Superintendent.

EAGLE SCOUT PROCLAMATION

Supervisor Ellis reported John Kummer has achieved the honor of Eagle Scout. The ceremony will be in September. The following Proclamation was presented for the Board's consideration

***Whereas**, the Boy Scouts of America was founded on February 8, 1910, in the United States of America; and*

***Whereas**, in September of 1998, John Kummer joined Lewiston Cub Scout Pack 855; and*

***Whereas**, in February of 2003, John was awarded the Arrow of Light and crossed over into Wheatfield Boy Scout Troop 101; and*

***Whereas**, John has earned 33 merit badges, has served as an Assistant Patrol Leader, Patrol Leader & Senior Patrol Leader and was inducted as a member of the Order of the Arrow, Scouting's National Honor Society; and*

***Whereas**, through the years John has advanced through the ranks and through his hard work and leadership qualities has helped establish his current troop, Sanborn Boy Scout Troop 824, and has attained the rank of Eagle Scout, the highest and most prestigious rank offered by the Boy Scout Program; and*

***Whereas**, the Scout motto is "Be Prepared", and from the day that John became a scout, he set about preparing to help other people; and*

***Whereas**, the Scout Law sets goals and standards to live by, John has demonstrated that he is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean and reverent; and*

***Whereas**, the Scout Code helps the Scout grow into a better man and a better citizen; and*

***Whereas**, Scouts believe it is their duty to love their country, to support its Constitution, to obey its laws, to respect its flag, and to defend it against all enemies; and*

***Whereas**, character, participation and leadership are the basis of good citizenship; therefore be it*

***Resolved**, the Town of Cambria is proud of your achievement, advancement to the rank of Eagle Scout, and shares with you in one of the greatest occasions, not merely of your career as a*

Scout, but of your whole life, and honors you this day by resolution of the Town Board on August 13, 2009.

**TOWN OF CAMBRIA TOWN BOARD
AUGUST 27, 2009 PAGE SIX**

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Ohol, it was resolved to approve the Proclamation recognizing John Kummer for attaining the rank of Eagle Scout.

Ayes: Blackman, Bush, Ellis, Kroening, Ohol -Motion Carried-

JUSTICE COURT SECURITY OFFICER

Justice Peters and Justice Jowdy submitted a letter recommending the appointment of Kevin Schreder as Court Officer for both Courts. Supervisor Ellis indicated Mr. Schreder is a town resident and his resumé shows he is well qualified for the position.

Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to appoint Kevin C. Schreder of 5852 Shawnee Road as a Justice Court Security Officer at a rate of \$16.50 per hour.

Ayes: Blackman, Bush, Ellis, Kroening, Ohol -Motion Carried-

(It was noted that the Court Security Officers serve as independent contractors, paid monthly on a voucher).

PROCUREMENT FORM – PURCHASE OF FIRE HYDRANTS

Supervisor Ellis reported the need to purchase (4) hydrants that were included in the 2009 Water District budget. The lowest proposal was received from Lock City Supply in the amount of \$6,528.00.

Upon a motion duly made by Councilman Blackman and seconded by Councilwoman Kroening, it was resolved to approve the proposal from Lock City Supply for (4) fire hydrants at a total cost of \$6,528.00.

Ayes: Blackman, Bush, Ellis, Kroening, Ohol -Motion Carried-

TRAINING REQUESTS

Request was received from Justice Jowdy for authorization to attend the New York State Magistrates annual meeting to be held in Lake Placid, NY from October 17-21, 2009.

Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to approve the request of Justice Jowdy to attend the New York State Magistrates annual meeting to be held in Lake Placid, NY from October 17-21, 2009.

Ayes: Blackman, Bush, Ellis, Kroening, Ohol -Motion Carried-

2008 FINANCIAL AUDIT/JUSTICE COURT AUDIT

Supervisor Ellis reported he is in receipt of the audit for 2008 for the Town of Cambria including examination of the Justice Court records. The financial statement is available in the Supervisor's office for review. The following resolution was presented for approval:

Upon a motion duly made by Councilman Blackman and seconded by Councilman Bush, it was resolved to acknowledge the receipt and filing of the audit of the Town of Cambria financial statements for the period ending December 31, 2008 as conducted by Lumsden & McCormick, LLP, Certified Public Accountants, which audit included the examination of the Justice Court records.

Ayes: Blackman, Bush, Ellis, Kroening, Ohol -Motion Carried-

BUDGET MEETING

Supervisor Ellis suggested the Board set the date for the budget meeting with the Fire Companies for 7:00 pm on September 17th in the Community Room.

ADDITIONAL MATTERS

- Supervisor Ellis reported the State of New York State Board of Real Property Services certificate of Final State Equalization Rate was received and the Town of Cambria continues to be at 100%.

**TOWN OF CAMBRIA TOWN BOARD
AUGUST 13, 2009 PAGE SEVEN**

- The Eastern Niagara United Way campaign will soon be underway. The Town of Cambria received a plaque for being a 2008 Community Leader.
- A check has been received from New York State in the amount of \$10,000.00 towards the expenses for the electronic message center. The receipt of these funds was initiated through the efforts of Assemblywoman Francine DeMonte.

AUTHORIZING RESOLUTION FOR PARK DEVELOPMENT APPLICATION

Supervisor Ellis reported another grant application for the Town Park will be submitted for \$600,000.00 for the two large baseball diamonds and the soccer field. The following resolution was presented for the Board's consideration:

RESOLVED,

That Wright H. Ellis as Supervisor Town of Cambria, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Title 9 of the Environmental Protection Act of 1993 or the Federal Land and Water Conservation Fund Act of 1965, in an amount not to exceed \$600,000 and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to this Town of Cambria for the Town of Cambria Park and, if appropriate, a conservation easement/preservation covenant to the deed of the assisted property.

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Bush, it was resolved to approve the authorizing resolution as presented.

Ayes: Blackman, Bush, Ellis, Kroening, Ohol -Motion Carried-

- Councilman Bush thanked everybody that helped with the Town-wide Yard Sale. He indicated that 200 residents participated.
- Supervisor Ellis announced the final concert for the Gazebo Concert Series would be this Sunday, August 16 at 5:00 PM with a car cruise and the "Hollydaze" concert starting at 6:00 PM. Supervisor Ellis thanked Sally Marotta-Reed for organizing the concert series and Tom Reed for his support.

ADJOURNMENT

As there was no further business, the meeting was adjourned by motion made by Councilwoman Kroening and seconded by Councilman Blackman. Time: 9:20 PM.

Respectfully submitted,

Lou Ann Murawski, Town Clerk