

TOWN OF CAMBRIA TOWN BOARD

August 14, 2008

The regular meeting of the Town of Cambria Town Board was held at 8:00 pm on the 14th day of August 2008 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
Edwin J. Shoemaker, Attorney
Sixteen interested individuals

Following salute to the flag, Supervisor called the meeting to order.

PUBLIC HEARING – WIND ENERGY CONSERVATION SYSTEMS

The Clerk read the following public hearing notice:

**TOWN OF CAMBRIA
NOTICE OF PUBLIC HEARING**

PLEASE TAKE NOTICE that the Town of Cambria will hold a Public Hearing on the 14th day of August, 2008 at 8:00 PM at the Town Hall, 4160 Upper Mountain Road, Sanborn, New York 14132, to hear and consider Stop Gap Legislation (a moratorium) on issuance of building permits on Wind Energy Conservation Systems either individually or clustered in windmill farms pending a review by the Town Board of a comprehensive approach to regulate those structures.

This moratorium will remain in full force and effect until August 1, 2009 or until the Town Board may adopt necessary regulations.

All parties in interest and citizens will be heard at the public hearing to be held as aforesaid.

Supervisor Ellis opened the public hearing. He indicated that, at the present time, there are no regulations in place concerning windmills. If an application were presented to erect a windmill, there are no provisions in the Zoning Ordinance which would allow the Zoning Board of Appeals to take action. He indicated the moratorium will provide support for the Building Inspector and will allow the Town Board adequate time to adopt legislation. The Planning Board will be involved in reviewing relevant ordinances regulating windmills.

William Schreuder, 4920 Townline Road, requested the Town Board consider a six month moratorium instead of one year due to the construction season. Gary DiLaura, 3056 Saunders Settlement Road and Roger Schreuder, 5175 Upper Mountain Road, also agreed with limiting the moratorium to a period of six months. Supervisor Ellis indicated the one year term was recommended to allow sufficient time to put together an ordinance.

After hearing all those who desired to be heard, the hearing was closed and the regular meeting was called to order.

APPROVAL OF MINUTES

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to approve the Minutes of the July 10, 2008 Town Board meeting.

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 17-19	\$ 211.97
Drainage Fund	Claims 19-21	\$ 247.15
General Fund	Claims 357-454	\$ 59,167.03
Highway Fund	Claims 158-180	\$ 131,316.80
Recreation Fund	Claims 19-29	\$ 6,967.55
Refuse Fund	Claims 13-15	\$ 45,813.09

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Sewer Operating	Claims 34-36	\$ 755.70
Trust Agency Fund	Claims 31-32	\$ 422.07
Water Construction Fund	Claims 11-12	\$ 162,385.44
Water Operating Fund	Claims 137-155	\$ 49,185.60

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

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

WINDMILL MORATORIUM – LEAD AGENCY

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Ohol, it was resolved to designate the Town Board as lead agent under SEQRA regarding the Moratorium on Wind Turbine construction.

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

RESOLUTION DECLARING MORATORIUM ON WIND TURBINE CONSTRUCTION

The following resolution was presented for the Town Board's consideration:

WHEREAS, this Board has reviewed current regulations within the Town of Cambria relating to construction of various structures in the Town; and

WHEREAS, the Town of Cambria has no regulation or ordinance specifically relating to the construction of wind turbines in the Town; and

WHEREAS, such regulations are deemed necessary to protect the Town of Cambria residents both aesthetically and health wise; and

WHEREAS, the Town Supervisor has previously prepared Part I and Part II Short Environmental Assessment Form relating to this proposed moratorium dated August 14, 2008.

NOW, THEREFORE, it is **RESOLVED** that the moratorium is an unlisted action under SEQRA and after reviewing the Short Environmental Assessment Form on file with the Town, it is determined the action will not result in any significant adverse environmental impacts and that a negative declaration under SEQRA be filed with this Resolution and it is further

RESOLVED that the Town Board requires an additional period of time to consider appropriate regulations and ordinances on issuance of building permits on Wind Energy Conservation System (wind Turbines) either individually or clustered, and it is further

RESOLVED that no building permit nor permission of any kind be granted by the Town of Cambria pending consideration and adoption of such regulations and ordinances by this Board, and it is further

RESOLVED, that this Stop Gap legislation shall remain in full force and effect until August 1, 2009, or such other date that the Board may determine to enable it to adopt such regulations or ordinances.

Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to adopt the resolution as set forth.

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

FORMER BUSINESS

- **TOWN PARK NATURE TRAIL-** Supervisor Ellis reported the Eagle Scout signage project is progressing, along with signage for the gazebo, which is scheduled for installation at the end of this month.

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- **UPPER MOUNTAIN ROAD WATERLINE REPLACEMENT PROJECT**

Highway Superintendent Jon MacSwan reported the hook-ups are completed and they are finishing up the restoration work. The project should be completed next week, weather permitting.

CONCERNS OF CITIZENS

- Gary DiLaura, owner of Cambria Self-Storage located on Saunders Settlement Road, indicated he was given approval for a five building project in 2006 and, before he broke ground for the project, he requested consideration for a tax abatement (under 485B to apply to County taxes) and was told by the former Assessor that it was not available for his project. He submitted an application to the current Assessor, who is taking the position that the buildings were built over a year ago. He requested the Town Board to adopt a resolution directing the Assessor to accept his application for the 485b status on all four of his buildings.

Following a brief discussion, Attorney Shoemaker indicated he would be willing to discuss the matter with the Assessor with regards to the eligibility of the entire project.

- Mr. Mark Printup, President of Cambria Volunteer Fire Company, requested an update on the service awards program. Supervisor Ellis indicated the insurance company is still looking into the matter—a referendum would not be required.
- Rae Ann Amacher congratulated Councilman Bush, Supervisor Ellis and Town Clerk Lou Ann Murawski and the members of the Bicentennial Committee on the success of the Bicentennial Celebration held at Niagara County Community College.

TOWN CLERK REPORTS

The Town Clerk reported receipt of the following:

- Niagara County SPCA Report, June 2008 – Total Animal Contacts: 59
- Building Inspector's Report – July 2008 – Total Receipts: \$505.00; Total estimated construction cost: \$97,000.00.
- A letter was received from Eveningside Vineyards, 4794 Lower Mountain Road, indicating they are renewing their liquor license.
- Letter from Cambria Volunteer Fire Company requesting that Kristen Pettit, 3116 Shenk Road Apt. B, Sanborn, NY 14132 and Raymond Schultz, 3970 Upper Mountain Road, Sanborn, NY 14132 be added to their roster of active members. They have also requested to have Lee Fletcher, 4524 Ridge Road, Lockport, NY 14094, Wells Crawley, 3567 Lower Mountain Road, Sanborn, NY 14132 and William Fischer, 5108 Carriage Lane, Lockport, NY 14094 to be removed from the active roster.

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to add Kristen Pettit and Raymond Schultz to the active roster pending the receipt of their physicals and to remove Lee Fletcher, Wells Crawley and William Fischer from the active roster for the Cambria Volunteer Fire Company.

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

- A letter was received from Mr. Frank Scarfone of 4229 Cambria-Wilson Road requesting approval from the Town Board to have a live band perform at his home on August 23, 2008 in accordance with the noise ordinance. Councilman Bush indicated he received no complaints in prior years.

Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to approve Mr. Scarfone's request to have a live band perform at his home on August 23, 2008.

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

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- A letter was received from Niagara County Board of Elections indicating the polling site locations for the Town of Cambria have been moved to Cambria Volunteer Fire Company, 4631 Cambria-Wilson Road, Lockport, NY 14094 for the upcoming 2008 Primary and General Elections.

HIGHWAY SUPERINTENDENT REPORTS

The Highway Superintendent reported as follows:

- The recycling and chip sealing of Baer Road, between Upper Mountain and Lower Mountain Road, has been completed.
- Beginning September 1st, the wood chipper will be out on a regular basis.
- Report that blacktop was \$34/ton last year; last week it was \$80.10/ton and today it is \$79.60/ton.

WATER/SEWER REPORTS

- Mr. MacSwan requested authorization to purchase an additional 80 water meters.

Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to approve the expenditure of \$10,000.00 from Water Operating Fund, Transportation and Distribution Line SW8340.04 to purchase water meters.

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

ATTORNEY REPORTS – None

BICENTENNIAL COMMITTEE

- Councilman Bush reported approximately 8,000-12,000 people attended the Bicentennial Celebration that was held at NCCC. NCCC has expressed interest in hosting an event again next year due to the successful draw of people and their families to the campus.
- Councilman Bush also reported the Town of Cambria yard sale was successful; 162 yard sale signs were distributed this year.

RECREATION COMMITTEE

- Councilwoman Kroening indicated there are still a few baseball teams playing in the playoffs.
- Sally Marotta-Reed, Recreation Day Program Director reported the number of registered children for the program was up this year (321) from (262) in 2007. The program wrapped up last week and was successful again this year. She indicated she has been visiting various townships for fresh ideas and would like to try a family outdoor movie night. Mrs. Reed indicated that due to the growth of the program, she would like to hire an additional counselor next year and would like to be part of the budget process. She will be submitting her final report later this month.

LANDFILLING OF PCB'S IN NIAGARA COUNTY

- Supervisor Ellis indicated that NYSDEC started to transport PCB materials to the CWM landfill in the Town of Porter a week ago and the waste will be transported at a rate of 18 truckloads per day through March 2009. The following resolution was presented for the Board's consideration:

RESOLUTION IN OPPOSITION TO LANDFILLING OF PCB'S IN NIAGARA COUNTY

WHEREAS, approximately 1,500 truckloads of hazardous waste from the former salvage yard landfill for the General Electric Co. located in the Town of Queensbury, Warren County, New York

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have been authorized by New York State Department of Conservation to be transported to CWM Chemical Services in the Town of Porter; and

WHEREAS, the waste, approximately 74,600 tons, contains PCBs at a concentration greater than 50 parts per million; and

WHEREAS, the original plan for the disposal of the waste called for the treatment of the hazardous waste by a process known as thermal desorption, which would heat the waste, separating the toxins; and

WHEREAS, the General Electric cleanup is being undertaken through New York State's program for the most environmentally contaminated sites; and

WHEREAS, nearly 33,000 tons of waste from a project site in Schenectady County and nearly 25,000 tons of contaminated soil from a site in Delaware County were disposed of at CWM during 2007; and

WHEREAS, CWM at the direction of DEC, is undertaking a series of investigations of its watershed to determine the source of leaking PCBs from its stormwater; and

WHEREAS, CWM's drainage system flows into Four Mile Creek and Lake Ontario;

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Cambria Town Board is opposed to the transport of nearly 75,000 tons of PCB's into Niagara County for landfilling at the CWM Chemical Services in the Town of Porter, New York citing potential risks to the fresh water supply of the Great Lakes and the risks posed by the trucking of the hazardous material, affecting not only the Town of Cambria and Niagara County residents, but also residents across New York State; and be it further

RESOLVED, that the NYS Department of Environmental Conservation be requested to rescind their decision for the transport and landfilling of the hazardous material from Warren County, New York and to consider an alternative plan to have the material safely destroyed on site, as was originally intended.

RESOLVED, that certified copies of this resolution be forwarded to our State legislators and the Commissioner of the NYS Department of Environmental Conservation.

Upon a motion duly made by Councilman Blackman and seconded by Councilwoman Kroening, it was resolved to adopt the resolution opposing PCB's.

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

JUSTICE COURT MATTERS

• RESOLUTION - JUSTICE COURT AUDIT

Upon a motion duly made by Councilman Ohol and seconded by Councilman Blackman, it was resolved to acknowledge the receipt and filing of the audit of Town of Cambria financial statements for the period ending December 31, 2007 as conducted by Lumsden & McCormick, LLP, Certified Public Accountants, which audit included the examination of the Justice Court records.

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

• ATTENDANCE AT CONFERENCE

Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to approve the request from Justice Amel Jowdy to attend the New York State Magistrates' Conference in Niagara Falls, NY on September 21-24, 2008.

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

APPLICATION FOR GRANT – NYS JUSTICE COURT GRANT ASSISTANCE PROGRAM

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Bush, it was resolved to authorize the submittal of a grant application to NYS Justice Court Assistance Program requesting funding in the amount of \$4,000.00 for office equipment to include shredder, two calculators, TV/video player with cart and court computer program/cables and to further authorize the Town Supervisor to sign the application.

Ayes: Blackman, Bush, Ellis, Ohol, Kroening.

-Motion Carried-

SHAWNEE SNO-CHIEFS SITE PLAN

- Gary Broderick, representing the Shawnee Sno-Chiefs, indicated a site plan application has been submitted to the Town Board. The Shawnee Sno-Chiefs are in the process of purchasing property to store snowmobile equipment at 3856 Eagle Drive in Sanborn, NY. Attorney Shoemaker indicated they should include the Cambria Housing Authority on their insurance certificate since they will be crossing over their property to get to the Eagle Drive storage facility. Mr. Broderick indicated the Cambria Housing Authority would be named as an additional insured on their policy.

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Bush, it was resolved to accept the Site Plan Application submitted by the Shawnee Sno-Chiefs and it be forwarded to the Town of Cambria Planning Board for their review and recommendation.

Ayes: Blackman, Bush, Ellis, Kroening, Ohol

-Motion Carried-

TIME WARNER CABLE INC. RESOLUTION

- Supervisor Ellis indicated a letter was received from Time Warner Cable Inc. relative to the internal restructuring of Time Warner Cable, Inc. The following resolution was presented for the Board's consideration:

A RESOLUTION PROVIDING APPROVAL FOR THE SPIN-OFF AND INTERNAL RESTRUCTURING OF TIME WARNER CABLE INC.

WHEREAS, the Town of Cambria, New York ("Franchising Authority") has granted a cable television franchise (the "Franchise") to an entity (the "Franchisee") which is a subsidiary or affiliate of Time Warner Cable Inc. ("Time Warner Cable"); and

WHEREAS, Time Warner Cable is a publicly-traded corporation, with approximately 84% of its common stock currently held indirectly by Time Warner Inc.; and

WHEREAS, Time Warner Cable and Time Warner Inc. have entered into an agreement to effect a complete separation of Time Warner Cable from Time Warner Inc. (the "Spin-Off"); and

WHEREAS, upon closing of the Spin-Off, one hundred percent (100%) of the stock of Time Warner Cable will be publicly traded; and

WHEREAS, Time Warner Cable and Time Warner Inc. have filed FCC Form 394 providing details regarding the Spin-Off; and

WHEREAS, concurrent with the Spin-Off, Time Warner Cable is undertaking an internal restructuring whereby certain of its indirect subsidiaries and affiliates will be merged into their direct or indirect parent entities (the "Internal Restructuring"); and

WHEREAS, upon completion of the Internal Restructuring, the Franchise will be held by Time Warner NY Cable LLC (the "New Franchisee"); and

WHEREAS, Time Warner Cable has filed FCC Form 394 providing details regarding the Internal Restructuring; and

WHEREAS, the Franchising Authority wishes to grant its approval for the Spin-Off and the Internal Restructuring as described above.

NOW, THEREFORE, BE IT RESOLVED BY FRANCHISING AUTHORITY:

Section 1. The Franchising Authority hereby approves the Spin-Off.

- Section 2. The Franchising Authority hereby approves the Internal Restructuring.
- Section 3. Upon the closing of the Spin-Off and Internal Restructuring, the New Franchise shall remain bound by the obligations under the Franchise.
- Section 4. This resolution shall become effective immediately upon passage by the Franchising Authority.

Upon a motion duly made by Councilman Bush and seconded by Councilman Ohol, it was resolved to approve the resolution for Spin-Off and Internal Restructuring of Time Warner Cable Inc. as presented.

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

2009 BUDGET PROCESS

- Supervisor Ellis indicated the 2009 budget process is underway. The Department Heads have received their documents. A meeting with the Pekin and Cambria Fire Companies will be scheduled for September.

ADJOURNMENT

As there was no further business, the meeting was adjourned by motion made by Councilwoman Kroening and seconded by Councilman Blackman. Time: 9:10 PM.

Respectfully submitted,

Paula N. Jones
Deputy Town Clerk II

Lou Ann Murawski
Town Clerk

