

TOWN OF CAMBRIA TOWN BOARD

MARCH 8, 2007

The regular meeting of the Town of Cambria Town Board was held at 8:00 PM on the 8th day of March 2007 at the Town Hall, 4160 Upper Mountain Road, Town of Cambria, NY

BOARD MEMBERS PRESENT:

**Wright H. Ellis, Supervisor
Robert E. Blackman, Councilman
George J. Bush, Councilman
Matthew P. Foe, Councilman
Debra L. Kroening, Councilwoman**

ALSO PRESENT:

**Jon T. MacSwan, Highway Superintendent
Lou Ann Murawski, Town Clerk
Edwin J. Shoemaker, Attorney
Bill Wolcott, Union Sun & Journal
Three interested individuals**

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

APPROVAL OF MINUTES:

Councilwoman Kroening noted correction to the February 8, 2007 Minutes-the first two resolutions indicate "McCollum" as voting; should be corrected to "Kroening".

Upon a motion duly made by Councilman Foe and seconded by Councilwoman Kroening, it was resolved to approve the February 8, 2007 Minutes with the correction as noted.

Aye: Blackman, Bush, Ellis, Foe, Kroening

-Motion Carried-

APPROVAL OF VOUCHERS

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

General Fund	Claims 82 – 126	\$ 49,182.61
Highway Fund	Claims 32 – 57	\$ 77,479.40
Refuse Fund	Claims 4 – 5	\$ 28,148.04
Sewer Operating Fund	Claims 7 – 11	\$269,224.23
Trust Agency Fund	Claims 3 – 11	\$ 7,987.78
Water Operating Fund	Claims 29 – 44	\$ 16,335.50

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, Foe, Kroening

-Motion Carried-

Upon a motion duly made by Councilman Blackman and seconded by Councilman Foe, it was resolved to approve the voucher submitted by Councilwoman Kroening for expenses incurred while attending the NYS Association of Towns meeting, totaling \$1,182.27.

Ayes: Blackman, Bush, Ellis, Foe, Kroening

-Motion Carried

AWARD OF BID – ONE HALF TON PICK UP TRUCK

Jon MacSwan, Highway Superintendent, recommended award of the bid to Heinrich Chevrolet in the amount of \$20,000.00. It was indicated the original bid of \$20,479.15 was revised to reflect the long truck bed.

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to accept the revised bid submitted by Heinrich Chevrolet for the purchase of one 2007 Silverado long bed, one half ton pick up truck at a cost of \$20,000.00.

Ayes: Blackman, Bush, Ellis, Foe, Kroening

-Motion Carried-

NATURE TRAIL GRANT – SCOPE CHANGE AUTHORIZATION #3

Supervisor Ellis indicated Wendel Duchscherer has submitted Scope Change Authorization #3 which would cover the amount of time anticipated to submit a Notice of Intent to both Albany and local DEC offices and to monitor and inspect the Storm Water Pollution Prevention Plan during construction. The additional amount for Scope Authorization #3: \$9,940.00.

Upon a motion duly made by Councilman Bush and seconded by Councilman Foe, it was resolved to approve Scope Change Authorization #3 for the Town Park Nature Trail at a cost of \$9,940.00, bringing the total authorized fee to \$42,440.00.

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

NATURE TRAIL BID SPECIFICATIONS

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to authorize the Town Engineer to prepare bid specifications for the nature trail project for submittal at the April Town Board meeting.

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

WILLOW CREEK SUBDIVISION

The following letter from the Planning Board dated March 7, 2007 was presented:

**RE: PLANNED DEVELOPMENT DISTRICT
APPLICATION OF CASTLETON DEVELOPMENT LLC FOR WILLOW CREEK PATIO
HOMES FOR APPROVAL OF 24 PATIO HOMES IN VICINITY OF SHENK ROAD AND
TWO PATIO HOMES ON SAUNDERS SETTLEMENT IN THE TOWN OF CAMBRIA**

As per the Town of Cambria Town Board's recent request, please be advised that the Town of Cambria Planning Board makes the following recommendations to the Town Board regarding the request for a model home on Lot 1 fronting on Saunders Settlement Road (Route 31) for the above application pursuant to Article X, Section 1004 of the Zoning Ordinance, with the following conditions:

1. The lot should be at least sixty (60) feet in width;
2. The setback from the right-of-way on Route 31 should be between 60 feet and 72 feet;
3. The approximately depth of the lot should be 267 feet;
4. The model home should be approximately 1460 square feet with 2 to 3 bedrooms; and
5. The property should be suitably landscaped.

Also, the Planning Board approved the concept of the plan for 24 patio homes at its February 26, 2007 meeting, with the understanding that more detailed plans will be provided to the Town Board and Town Planning Board for future review.

If there are any questions, or if you require anything further, do not hesitate to contact me.

Very truly yours,

William Amacher, Chairman
Town of Cambria Planning Board

Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to accept the recommendations of the Town of Cambria Planning Board to approve the request for the construction of a model home on Lot #1, Saunders Settlement Road, subject to the five conditions as set forth in their letter dated March 7, 2007.

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

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ANNUAL AUDIT

Supervisor Ellis reported the annual audit by Lumsden & McCormick is nearing completion; they are waiting for the report from Industrial Appraisal. Once the audit is completed, the annual report of the Town Supervisor will be filed.

TOWN CLERK REPORTS

The Town Clerk reported as follows:

- Annual Report of the Building Inspector is on file in the Town Clerk's office
- Niagara County Industrial Development Agency will conduct a public hearing on March 13th at 4:30 PM at the Town Hall regarding the HSBC Technology & Services, Inc. Project
- The Unveiling of the Niagara County Bicentennial Logo will be presented at the Riviera Theater, North Tonawanda at 2:00 PM on March 11th.

HIGHWAY SUPERINTENDENT REPORTS

The Highway Superintendent reported as follows:

- Request for Heather Blasius to attend Excel seminar in Buffalo, NY on April 12, 13, 2007 at a cost of \$128.00

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Foe, it was resolved to authorize Heather Blasius to attend the Excel seminar to be held in Buffalo, NY on April 12, 13, 2007.

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

- Pump Station Dialers/Monitoring – Request to update dialer system for the BOCES Lift Station, Southway Drive Lift Station and the Fairview Court West Lift Station. Proposal from Eastern States Sentinel Alarm Services, \$400.00 for each station with an annual charge of \$240.00 for monitoring; total cost \$1,920.00.

Upon a motion duly made by Councilman Foe and seconded by Councilwoman Kroening, it was resolved to accept the proposal from Eastern States Sentinel Alarm Systems to install dialers and provide monitoring for the lift stations as proposed, at a total cost of \$1,920.00.

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

- WNY Water conference will be held in Lockport on April 4th – The Water/Sewer Department employees will be attending. No charge to the Town.
- Request authorization for Highway, Water, Sewer Department employees to attend equipment show to be held in Rochester, NY on April 4th.

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to authorize the Highway, Water and Sewer Department employees to attend the equipment show to be held in Rochester, NY April 4th.

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

- The Annual Water Quality Report is being finalized
- Request line item transfer of \$4,400 from Account DA5130.04 to DA5130.02 to cover the purchase of the one ton dump truck

Upon a motion duly made by Councilman Foe and seconded by Councilwoman Kroening, it was resolved to approve a fund transfer of \$4,400 from Highway Account DA5130.04 to DA5130.02.

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

- Back Up Cameras on vehicles – Mr. MacSwan indicated he would like to install back up camera viewfinders on some of the town trucks as a safety precaution, indicating that NYSDOT vehicles are now equipped with these cameras.
- Highway Building – would like to install a fireproof access door

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BICENTENNIAL COMMITTEE

Councilman Bush presented the new flag with the Town logo. He reported as follows:

- The Bicentennial Committee has met with the Fire Companies and they have indicated their interest in planning events with the Committee
- Refrigerator magnets for distribution to Town residents have been ordered
- Approval from NCCC for the use of their grounds for the July 2008 weekend event has been received

RECREATION COMMITTEE

Councilwoman Kroening indicated the Recreation Committee has discussed and would like to include in their summer baseball program a Midget baseball team for the 13-15 year olds. The cost would be approximately \$900 for 14 participants. The expense would be a charge against the Recreation budget.

Jon MacSwan indicated the costs for the Midget team includes two banquets, two night games and professional umpires.

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Bush, it was resolved to authorize the Recreation Committee to include a Midget Baseball team for the 2007 season at a total cost of \$900 to be funded through the Recreation budget.

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

PUBLIC HEARING - SUBDIVISION REGULATIONS, PUBLIC IMPROVEMENT PERMIT ORDINANCE, STANDARD SPECIFICATIONS

The following resolution was presented for the Board's approval:

WHEREAS, the Town Planning Board has presented revised Subdivision Regulations for the Town of Cambria and recommended the Town Board call a public hearing on those new Regulations; and

WHEREAS, the Town Board has also reviewed proposed Public Improvement Permit Regulations to be applicable to new public improvements in the Town; and

WHEREAS, the Town Board wishes to call a public hearing on those proposals; and

WHEREAS, the Town Supervisor has filed with the Town Clerk a Short Form Environmental Assessment Form (EAF) stating these proposed actions will not result in any significant adverse environmental impacts.

NOW, THEREFORE, it is hereby RESOLVED

1. to call a public hearing on the adoption of new Subdivision Regulations in the Town of Cambria;
2. to call a public hearing on the adoption of a new Public Improvement Permit Regulations in the Town of Cambria; and
3. that the hearings will be held on the 12th day of April, 2007 at 8:00 p.m. to hear and consider all persons interested in the Regulations as presented;

and it is further RESOLVED that those projects will not have a negative impact on the environment as set forth in the EAF filed in connection herewith.

BY ORDER OF THE TOWN BOARD TOWN OF CAMBRIA

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Bush, it was resolved to designate the Town Board as Lead Agent for purposes of SEQRA review.

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

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Bush, it was resolved to adopt the foregoing resolution calling for a public hearing on the Subdivision Regulations and the Public Improvement Permit Regulations.

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

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RESOLUTION – ACCEPTABLE TRAINING FOR PLANNING BOARD AND ZONING BOARD OF APPEALS MEMBERS

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

WHEREAS, Town Law Sections 267 and 271, Village Law Sections 7-712 and 7-718, and General City Law Sections 27 and 81 provide that effective January 1, 2007, all Planning Board and Zoning Board of Appeals members in New York State, as well as alternate members of those boards, must complete a minimum of four (4) hours of training each year; and

WHEREAS, the above sections of New York State law provide that a Planning Board or Zoning Board of Appeals member shall not be eligible for reappointment to such board if they have not completed the training required by law; and

WHEREAS, the above sections of New York State law provide that the legislative body of the town, village and city specifies which activities qualify as training to satisfy the state requirements; and

NOW, THEREFORE, be it

RESOLVED, that the following list of agencies, commissions, associations, universities, and other organizations are approved to provide training to meet the New York State requirements when the training they provide pertains to municipal planning, zoning, community design, environmental issues, economic development, and local government functions and practices:

- 1) the NYS Department of State; Department of Agriculture and Markets; Office of the State Comptroller; Department of Health; Department of Transportation; Department of Environmental Conservation; Office of Parks, Recreation, and Historic Preservation; and
- 2) the New York State Association of Towns, the New York Conference of Mayors, the New York State Association of Counties, the New York Planning Federation, the American Planning Association, the Upstate New York Chapter of the American Planning Association and its sections; and
- 3) the Niagara County Economic Development Department; and Niagara County Soil and Water Conservation district; and
- 4) Cornell University and its cooperative extension; and, be it further

RESOLVED, that the Town Board establishes a minimum of five (5) hours of training each year for all Planning Board and Zoning Board of Appeals members as well as alternate members of these boards; and be it further

RESOLVED, that other training activities may be approved on a case-by-case basis by the Town Board upon the request of a Planning Board or Zoning Board of Appeals member; and be it further

RESOLVED, that any new member appointed within the last eight (8) months of a calendar year to fill an unexpired term, shall not be required to complete the minimum training within that same year, but must thereafter comply with the municipal training policy as provided elsewhere herein; and be it further,

RESOLVED, that the Town Clerk shall create and maintain a system of tracking the training individual members complete annually; and such information shall be presented to the appointing authority prior to considering a member for reappointment.

Upon a motion duly made by Councilman Bush and seconded by Councilman Foe, it was resolved to approve the foregoing resolution.

Ayes: Blackman, Bush, Ellis, Foe, Kroening

-Motion Carried-

FIREMEN'S SERVICE AWARD PROGRAM

Board members were presented with the Member Census Information for the Firemen's Defined Contribution Service Award Plan for the year 01/01/06 through 12/31/06.

Supervisor Ellis indicated there are 31 members from Cambria and 19 members from Pekin Fire Company eligible for the year 2006.

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Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Foe, it was resolved to approve the member census for the 2006 Firemen's Service Award Program – Pekin: 19 members; Cambria: 31 members.

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

RESOLUTION REQUESTING NEW YORK STATE ATTORNEY GENERAL AND NEW YORK STATE COMPTROLLER TO INVESTIGATE THE AES SOMERSET PILOT AGREEMENT AUTHORIZED BY THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

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

WHEREAS, the Niagara County Industrial Development Agency (NCIDA) held a Public Hearing in the Town of Somerset on October 24, 2006 to consider approval of an inducement of AES Energy, LLC for the stated purpose of "Revenue Preservation PILOT" (pp 16 Application by AES for Assistance by NCIDA); and

WHEREAS, hundreds of citizens and taxpayers attended that hearing with a large percentage opposing this application; and

WHEREAS, the NCIDA adopted a resolution on October 27, 2006 to enter into a payment in lieu of taxes agreement (PILOT) with AES, Eastern Energy L.P. (Somerset LLC), and

WHEREAS, the Niagara County Legislature adopted a resolution on February 6, 2007 which, among other things, stated "there appears to be no legitimate reason to provide AES Somerset with a tax break that will cost taxpayers in the County of Niagara, the Town of Somerset and the Barker Central School District in excess of \$40 million in tax revenues over the next twelve (12) years", and

WHEREAS, the Somerset Town Board has authorized a lawsuit in support of a companion lawsuit by Barker School Under CPLR Article 78 demanding the Court find the AES inducement and related documents were in violation of lawful procedure, were arbitrary and capricious, an abuse of discretion and, therefore, decreeing those actions null and void.

NOW, THEREFORE, IT IS

RESOLVED, that the Town Board of the Town of Cambria fully supports Resolution Number IL-009-07 by the Niagara County Legislature and resolution adopted by the Town of Somerset on February 13, 2007, requesting New York State Attorney General and Comptroller to conduct a thorough and impartial investigation of the facts relating to the AES PILOT agreement; and

BE IT FURTHER,

RESOLVED, that the Town Clerk forward copies of this Resolution to the Office of the New York State Comptroller and the Office of the Attorney General.

Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to approve the foregoing resolution.

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

NEW YORK STATE OFFICE OF REAL PROPERTY SERVICES – GRANT DOCUMENTS

Supervisor Ellis indicated the contract documents relating to the grant from NYSORPS have been received and authorization is required to file for the grant in the amount of \$4,052.00.

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Foe, it was resolved that the Town Supervisor be authorized to sign the contract documents for the grant approved by the NYS Office of Real Property Services in the amount of \$4,052.00.

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

ASSESSOR OFFICE – SECTION 511 NOTICES

Supervisor Ellis indicated the Board has received information from the NYS Office of Real Property Services with regards to the requirements of assessment disclosure notices in

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accordance with Real Property Tax Law Section 511 and the need to send out disclosure statements at least once every three years.

Supervisor Ellis recommended the Board direct the Assessor to issue Section 511 notices in accordance with the directive in the letter from NYSORPS dated 2/2/07.

Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved that the Assessor be directed to issue Section 511 notices in accordance with the directive from the New York State Office of Real Property Services as outlined in their letter dated February 2, 2007 and further, that authorization be approved for the purchase of the necessary software to generate such notices.

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

EXECUTIVE SESSION

Upon a motion duly made by Councilman Foe and seconded by Councilman Blackman, it was resolved to enter into executive session to discuss personnel matters.

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

There was no action taken during executive session.

Upon a motion duly made by Councilman Bush and seconded by Councilman Foe, it was resolved to close the executive session.

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

RE-CONVENE REGULAR MEETING

Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to re-convene the regular meeting.

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

THOMAS SCHULER MATTER

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Bush, it was resolved to authorize the Town Attorney to proceed with negotiations with Attorney Catherine Creighton regarding the claim of Thomas Schuler and to report back to the Town Board with a proposed settlement.

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

ADJOURNMENT

As there was no further business, the meeting was adjourned by motion made by Councilman Foe and seconded by Councilman Blackman. Time: 9:05 pm

Respectfully submitted,

Lou Ann Murawski
Town Clerk

