

**TOWN OF CAMBRIA TOWN BOARD**

**FEBRUARY 14, 2008**

**The regular meeting of the Town of Cambria Town Board was held at 8:00 pm on February 14, 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  
Robert Klavoon, Wendel Duchscherer  
Edwin J. Shoemaker, Attorney  
Three interested individuals

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

**PUBLIC HEARING – LOCAL LAW NO. 2, 2008 – A LOCAL LAW TO PROHIBIT ILLICIT DISCHARGES, ACTIVITIES ANC CONNECTIONS TO SEPARATE STORM SEWER SYSTEMS IN THE TOWN OF CAMBRIA**

The following public hearing notice was read by the Town Clerk:

PLEASE TAKE NOTICE that the Town Board of the Town of Cambria will hold a Public hearing on the 14<sup>th</sup> day of February, 2008 at 8:00 p.m. at the Town Hall, 4160 Upper Mountain Road, Sanborn, New York 14132, to hear and consider adoption of a Local Law entitled “A Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer Systems in the Town of Cambria.” All sections of Local Law No. 1, 2007 are incorporated herein. Also:

**SECTION 7. PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER**

7.1 Activities that are subject to the requirements of this section are those types of activities that:

7.1.1 Cause or contribute to a violation of the municipality's MS4 SPDES permit.

7.1.2 Cause or contribute to the municipality being subject to the Special Conditions as defined in Section 2 (Definitions) of this local law.

7.2 Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

This local law shall rescind and supersede Local Law No. 1, 2007 of the Town of Cambria.

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

Supervisor Ellis opened the public hearing and explained the proposed local law is the same as the one adopted in November 2007; however, there was an omission in that local law, which is now covered under Section 7 of the proposed new local law.

As there was no one present desiring to be heard, the public hearing was closed.

**APPROVAL OF MINUTES:**

**Upon a motion duly made by Councilman Ohol and seconded by Councilwoman Kroening, it was resolved that the Minutes of the January 10, 2008 Town Board meeting be approved as presented.**

**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	Claim 3	\$ 194.11
Drainage Fund	Claims 2 – 6	\$ 8,253.86
General Fund	Claims 34-92	\$155,824.54
Highway Fund	Claims 17 – 43	\$ 71,716.06
Recreation Fund	Claim 1	\$ 175.00
Refuse Fund	Claims 1 – 3	\$ 42,380.37
Sewer Operating	Claims 1 – 9	\$248,063.66
Trust Agency Fund	Claims 2 – 5	\$309,779.44
Water Construction Fund	Claims 1-2	\$ 13,971.63
Water Operating Fund	Claims 9 – 35	\$ 42,789.32

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

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

**LOCAL LAW NO. 2, 2008 – A LOCAL LAW TO PROHIBIT ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO SEPARATE STORM SEWER SYSTEMS IN THE TOWN OF CAMBRIA**

**Upon a motion duly made by Councilman Blackman and seconded by Councilwoman Kroening, it was resolved to approve Local Law No. 2, 2008, a Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer Systems in the Town of Cambria.**

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

**LOCAL LAW NO. 2 OF THE YEAR, 2008**

**A Local Law entitled “A Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer Systems in the Town of Cambria”**

Be it Enacted by the Town Board of the Town of Cambria as Follows:

**SECTION 1. PURPOSE/INTENT**

The purpose of this law is to provide for the health, safety, and general welfare of the citizens of the Town of Cambria through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This law establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this law are:

- 1.1 To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- 1.2 To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- 1.3 To prohibit Illicit Connections, Activities and Discharges to the MS4;
- 1.4 To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and
- 1.5 To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

**SECTION 2. DEFINITIONS**

Whenever used in this law, unless a different meaning is stated in a definition applicable to only a portion of this law, the following terms will have meanings set forth below:

- 2.1 Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or

- stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- 2.2 Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- 2.3 Construction Activity. Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- 2.4 Department. The New York State Department of Environmental Conservation.
- 2.5 Design Professional. New York State licensed professional engineer or licensed architect.
- 2.6 Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristic may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- 2.7 Illicit Connections. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:
1. Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
  2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- 2.8 Illicit discharge. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 6 of this law.
- 2.9 Industrial Activity. Activities requiring SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
- 2.10 MS4. Municipal Separate Storm Sewer System.
- 2.11 Municipal Separate Storm Sewer System. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
1. Owned or operated by the Town of Cambria;
  2. Designed or used for collecting or conveying stormwater;
  3. Which is not a combined sewer; and
  4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR 122.2.
- 2.12 Municipality. The Town of Cambria.
- 2.13.1 Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.
- 2.14 Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- 2.15 Pollutant. Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.
- 2.16 Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- 2.17 Special Conditions.

1. Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
  2. 303(d) Listed Waters. The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
  3. Total Maximum Daily Load (TMDL) Strategy. The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
  4. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- 2.18 State Pollutant Discharge Elimination System (SPDES) Stormwater Discharge Permit. A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.
- 2.19 Stormwater. Rainwater, surface runoff, snowmelt and drainage.
- 2.20 Stormwater Management Officer (SMO). An employee, the municipal engineer or other public official(s) designated by the Town of Cambria to enforce this local law. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.
- 2.21 303(d) List. A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes, and streams that fall short of the state surface water quality standards and are not expected to improve within the next two years.
- 2.22 TMDL. Total Maximum Daily Load.
- 2.23 Total Maximum Daily Load. The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.
- 2.24 Wastewater. Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

### **SECTION 3. APPLICABILITY**

This law shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

### **SECTION 4. RESPONSIBILITY FOR ADMINISTRATION**

The Stormwater Management Officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this law. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

### **SECTION 5. SEVERABILITY**

The provisions of this law are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this law.

## **SECTION 6. DISCHARGE PROHIBITIONS**

### **6.1 Prohibition of Illegal Discharges.**

No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Section 6.1.1. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

6.1.1 The following discharges are exempt from discharge prohibitions established by this local law, unless the Department or the municipality has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn

watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to stormdrains, uncontaminated pumped ground water, foundation or footing drains, crawl space or from individual residential car washing, natural riparian habitat or wetland

6.1.2 flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

6.1.2 Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time prior and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this local law.

6.1.3 Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.

6.1.4 The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

### **6.2 Prohibition of Illicit Connections.**

6.2.1 The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

6.2.2 This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

6.2.3 A person is considered to be in violation of this local law if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

## **SECTION 7. PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER**

7.1.1 Activities that are subject to the requirements of this section are those types of activities that:

7.1.1 Cause or contribute to a violation of the municipality's MS4 SPDES permit.

7.1.2 Cause or contribute to the municipality being subject to the Special Conditions as defined in Section 2 (Definitions) of this local law.

7.2 Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

**SECTION 8. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

- 8.1 Best Management Practices.  
Where the SMO has identified illicit discharges as defined in Section 2 or activities contaminating stormwater as defined in Section 8 the municipality may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.
- 8.1.1 The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.
- 8.1.2 Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in Section 2 or an activity contaminating stormwater as defined in Section 8, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
- 8.1.3 Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

**SECTION 9. SUSPENSION OF ACCESS TO MS4. Illicit Discharges in Emergency Situations.**

- 9.1 The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.
- 9.2 Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMO.

**SECTION 10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the municipality prior to the allowing of discharges to the MS4.

**SECTION 11. ACCESS AND MONITORING OF DISCHARGES.**

- 11.1 Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Law.
- 11.2 Access to Facilities.
- 11.2.1 The SMO shall be permitted to enter and inspect facilities subject to regulation under this law as often as may be necessary to determine compliance with this Law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
- 11.2.2 Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this law.
- 11.2.3 The municipality shall have the right to set up on any facility subject to this law such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

- 11.2.4 The municipality has the right to require the facilities subject to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- 11.2.5 Unreasonable delays in allowing the municipality access to a facility subject to this law is a violation of this law. A person who is the operator of a facility subject to this law commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.
- 11.2.6 If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

## **SECTION 12. NOTIFICATION OF SPILLS.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

## **SECTION 13. ENFORCEMENT**

### **13.1 Notice of Violation.**

When the municipality's SMO finds that a person has violated a prohibition or failed to meet a requirement of this law, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- 13.1.1 The elimination of illicit connections or discharges;
- 13.1.2 That violating discharges, practices, or operations shall cease and desist;
- 13.1.3 The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- 13.1.4 The performance of monitoring, analysis, and reporting;
- 13.1.5 Prosecution for such violation under Section 12.2;
- 13.1.6 The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

### **13.2 Penalties**

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six (6) months, or both; and

upon a conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700.00) not more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation such constitute a separate additional violation.

#### **SECTION 14. APPEAL OF NOTICE OF VIOLATION**

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Town of Cambria Town Board within fifteen (15) days of its issuance, which shall hear the appeal within thirty (30) days after the filing of the appeal, and within five (5) days of making its decision, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger.

#### **SECTION 15. CORRECTIVE MEASURES AFTER APPEAL**

- 15.1 If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within five (5) business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- 15.2 If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

#### **SECTION 16. INJUNCTIVE RELIEF**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this law. If a person has violated or continues to violate the provisions of this law, the SMO may petition for a preliminary or permanent injunction restraining the person for activities which would create further violations of compelling the person to perform abatement or remediation of the violation.

#### **SECTION 17. ALTERNATIVE REMEDIES**

- 17.1.1 When a person has violated a provision of this Law, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the

Municipal Attorney and concurrence of the Municipal Code Enforcement Officer, where:

- 17.1.1 The violation was unintentional;
- 17.1.2 The violator has no history of previous violations of this Law;
- 17.1.3 Environmental damage was minimal;
- 17.1.4 Violator acted quickly to remedy violation;
- 17.1.5 Violator cooperated in investigation and resolution.

- 17.2 Alternative remedies may consist of one or more of the following:

- 17.2.1 Attendance at compliance workshops;
- 17.2.2 Storm drain stenciling or storm drain marking;
- 17.2.3 River, stream or creek cleanup activities.

#### **SECTION 18. VIOLATIONS DEEMED PUBLIC NUISANCE**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this law is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance, and may be summarily abated or restored at the violator's expense and/or a civil action to abate, enjoin, or otherwise compel and cessation of such nuisance may be taken.

#### **SECTION 19. REMEDIES NOT EXCLUSIVE**

The remedies listed in this law are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

**SECTION 20.**

Revision of this Local Law shall rescind and supersede Local Law No. 1, 2007 of the Town of Cambria and shall take effect immediately upon filing with the Secretary of State.

**COURT SECURITY OFFICERS PAY RATE**

**Upon a motion duly made by Councilman Bush and seconded by Councilman Ohol, it was resolved to set the rate paid to Court Security Officers, Shawn McIntyre and Roger Schreder at \$16.00 per hour, for both day and night court sessions, effective February 1, 2008.**

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

**UPPER MOUNTAIN ROAD WATERLINE PROJECT**

Robert Klavoon, Wendel Duchscherer, indicated that all necessary approvals have been received to move forward with the Upper Mountain Road waterline project. Direction is needed from the Board at this point as to whether to delay bidding the project for another month to develop specifications for the installation of a proposed natural gas line.

**Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Bush, it was resolved to delay bidding the project for one month and to further authorize Wendel Duchscherer to coordinate with National Fuel to develop specifications for the proposed natural gas line installation.**

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

**CONCERNS OF CITIZENS**

There was no one present desiring to be heard on any particular matter.

**TOWN CLERK REPORTS**

The Town Clerk reported receipt of the following:

- Building Inspector's Report – January, 2008 Total Receipts: \$1,502.50;  
Total estimated value of construction: \$39,700.00
- Building Inspector's 2007 Annual Report – received and filed
- Letter from NYS Office of Real Property Tax Services commending the Town of Cambria for completion of the annual reassessment. The Town will be receiving \$5.00 per parcel in State aid, a voucher in the amount of \$12,835.00, using a parcel count of 2,567 was forwarded to the Office of the State Comptroller for processing.

**HIGHWAY SUPERINTENDENT REPORTS**

The Highway Superintendent reported as follows:

- Request for authorization to declare the 1993 Autocar, recently damaged by fire, as surplus and to advertise for its sale

**Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to declare the 1993 Autocar Tandem Axle truck as surplus and to further authorize the Highway Superintendent to advertise the vehicle for sale, accepting sealed bids, with a minimum bid of \$1,500.00.**

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

- Request authorization for approval of Ditch petitions, as recommended by Drainage Committee

**Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to approve the cleaning of the following ditches, as recommended: 5795 Comstock Road (Smith); 5486 Comstock (Haimerl); 4985 Shunpike (Partyka); Raymond Road ditch (Hoover property).**

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

**ATTORNEY REPORTS** - There were no reports presented by the Attorney.

**RESOLUTION IN SUPPORT OF GOVERNOR SPITZER'S PLAN TO APOINT A COMMISSION TO EXAMINE SCHOOL DISTRICT PROPERTY TAXES**

The following resolution was presented for the Board's consideration

**WHEREAS**, New York's per capita local tax burden is the highest in the nation and more than twice that of the national average; and

**WHEREAS**, according to the Office of the State Comptroller, outside of New York City, school districts account for 61% of the property taxes paid by New Yorkers; and

**WHEREAS**, during the past five years, school district tax levies have grown by an average of 7.3% annually; and

**WHEREAS**, local government officials point to unfunded mandates as a major factor that drives spending;

**THEREFORE**, the Town Board of the Town of Cambria, Niagara County, New York does hereby support Governor Spitzer's plan to appoint a bipartisan Commission to examine school district property taxes and charged with developing the following:

- Reforms that address the major costs driving local school district property taxes;
- Proposals to increase the fairness and effectiveness of New York's property tax relief system for middle class taxpayers; and
- A fair and effective property tax cap for school districts that controls property taxes

Be it further, **RESOLVED**, that a copy of this resolution be forwarded to our local, county and state representatives urging them to support the Governor in this commendable effort.

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

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

**BICENTENNIAL COMMITTEE**

Councilman Bush reported as follows:

- ❑ Postcards announcing the upcoming March 9<sup>th</sup> event at the Cambria Fire Hall will be sent to all residents. The card lists all the activities for the event which includes historical displays, horse/wagon rides to the open house at the Cambria Museum, entertainment by the Niagara Frontier Fiddle Club, Chowder and bake sale by both Cambria and Pekin Fire Companies. The dates for the summer event at Niagara County Community College are also listed.
- ❑ Supervisor Ellis and Councilman Bush taped a show on LCTV about Cambria's Bicentennial events. It will air February 16-29 at various times throughout the day.
- ❑ Councilman Bush and Lou Ann Murawski have been invited to meet with NCCC representatives regarding the July 26-27<sup>th</sup> weekend event schedule. NCCC is planning a Hot Air Balloon launch and will also have activities during the weekend, including tours of the newly constructed dormitories.
- ❑ Bicentennial flyers have been provided for distribution at the weekly fish fry at Cambria Fire Hall.
- ❑ The Union Sun & Journal has arranged for a meeting with Councilman Bush and Lou Ann Murawski for an interview to prepare an article about the Town's Bicentennial events.

**APPOINTMENT OF DELEGATE – ANNUAL ASSOCIATION OF TOWNS MEETING**

**Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to appoint Debra L. Kroening as the Town of Cambria delegate at the annual Association of Towns meeting, authorizing her to vote on the various resolutions presented at the meeting.**

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

**RESOLUTION – REPLACEMENT OF HIGHWAY DEPARTMENT 1993 AUTOCAR**

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

**BE IT RESOLVED**, by the Town Board, Town of Cambria that the sudden, unexpected loss of the Town Highway Department's 1993 Autocar Snowplow truck by fire has created a public emergency pursuant to Article 5A of the General Municipal Law of the State of New York, and, therefore,

**BE IT FURTHER RESOLVED**, that the Town Board, without awaiting competitive bidding, authorizes the purchase of a replacement snowplow truck as recommended by the Town Highway Superintendent, being a 2007 Peterbilt tandem axle truck chassis, 15 foot dump box with snowplow equipment, for the sum of \$149,748.00.

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

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

**BOND RESOLUTION – AUTHORIZING PURCHASE OF USED 2005 GRADALL TRUCK-MOUNTED MULTI-PURPOSE EXCAVATOR AT AN ESTIMATED MAXIMUM COST OF \$161,731.00 AND AUTHORIZING THE ISSUANCE OF \$60,000.00 SERIAL BONDS OF SAID TOWN TO PAY THE COST THEREOF**

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

**WHEREAS**, it is desired to authorize the purchase of used 2005 Gradall truck-mounted multi-purchase excavator at an estimated maximum cost of \$161,731.00 and authorizing the issuance of \$60,000.00 serial bonds, and to provide for the financing thereof in accordance with the aforesaid order;

**NOW, THEREFORE, BE IT**

**RESOLVED**, by the Town Board of the Town of Cambria, Niagara County, New York, as follows:

Section 1. The Town of Cambria hereby authorizes the purchase of used 2005 Gradall truck-mounted multi-purchase excavator at an estimated maximum cost of \$161,731.00 and authorizing the issuance of \$60,000.00 serial bonds, in and for the Town of Cambria, Niagara County, New York, as more fully described in the aforesaid proceedings, is hereby authorized.

Section 2. The maximum estimated cost of such specific object or purpose is \$161,731.00 and the plan for the financing thereof is by the issuance of the serial bonds of said Town hereby authorized to

be issued pursuant to the provisions of the Local Finance Law, together with payment from Highway Capital Equipment Fund and from budgetary appropriations. Further details pertaining to the said bonds will be prescribed in a further resolution or resolutions of this Town Board.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is fifteen years, pursuant to subdivision 28 of paragraph (a) of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will not exceed fifteen years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Town of Cambria, Niagara County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on such obligations as the same respectively become due and payable. All the taxable real property in said Town shall be subject to the levy of ad valorem taxes without limitation as to rate or amount sufficient to pay the principal of and interest on said bonds as the same shall become due.

Section 6. The validity of such bonds and bond anticipation notes may be contested only if:



- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suite or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are not authorized in violation of the provisions of the Constitution.

Section 7. Upon this resolution taking effect, the same shall be published in full in the Union Sun & Journal, the official newspaper, together with a notice of the Town Clerk, in substantially the form provided in Section 81.00 of the Local Finance Law.

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

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

The Resolution was thereupon declared duly adopted.

### **AGREEMENT TO SPENT TOWN HIGHWAY FUNDS**

The following Agreement to Spend Town Highway Funds was presented for the Board's approval:

The sum of \$275,000 may be expended for general repairs upon 31.39 miles of town highways:

The following sums shall be set aside to be expended for the improvement of town highways on the road commencing at Baer Rd. (Upper Mountain Rd.) and leading to Lower Mountain Rd., a distance of 1.53 miles- topcoat and shoulder work;

On the road commencing at Blackman Rd. (Upper Mountain Rd.) and leading to Thrall Rd., a distance of 1.12 miles –topcoat;

On the road commencing at Randolph & Heffren Subdivison, a distance of .25 miles – topcoat.

**Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to approve the Agreement to Spend Town Highway Funds as presented by the Highway Superintendent.**

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

Highway Superintendent, Jon MacSwan, expressed his appreciation to the Town Board for acting so swiftly on replacing the damaged snowplow truck.

### **HIGHWAY CLERK – AUTHORIZATION TO ATTEND TRAINING SESSION**

**Upon a motion duly made by Councilman Blackman and seconded by Councilwoman Kroening, it was resolved to authorize the Highway Clerk to attend training on computer software on February 26, 2008 in Lewiston, NY at a cost of \$105.00.**

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

### **EXECUTIVE SESSION**

**Upon a motion duly made by Councilman Bush and seconded by Councilman Ohol, it was resolved to enter into Executive Session for the purpose of discussing personnel matters.**

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

**There was no formal action taken during the Executive session.**

**Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to close the Executive Session.**

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

**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, Kroening, Ohol**

**-Motion Carried-**

**ADJOURNMENT**

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

Respectfully submitted,

Tamara J. Cooper, Deputy Town Clerk

Lou Ann Murawski, Town Clerk