

August 08, 2013

The regular meeting of the Town of Cambria Town Board was held at 8:00 pm on the 8th day of August 2013 at the Town Hall, 4160 Upper Mountain Road, Town of Cambria, New York

BOARD MEMBERS PRESENT:

Wright H. Ellis, Supervisor
Robert E. Blackman, Councilman
Matthew P. Foe, Councilman
Randy M. Roberts, Councilman

ALSO PRESENT:

Jon T. MacSwan, Highway Superintendent
Lou Ann Murawski, Town Clerk
Robert Roberson, Attorney
Randy Roeseler, Wendel
Thommas Reynolds, Wendel
10 interested individuals

ABSENT:

Joseph Ohol, Councilman

Following salute to the flag, Supervisor Ellis opened the public hearing.

PUBLIC HEARING – LOCAL LAW NO. 2, 2013, ‘PROPERTY MAINTENANCE LOCAL LAW FOR THE TOWN OF CAMBRIA, NIAGARA COUNTY, NEW YORK’

The Clerk read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Town Board of the Town of Cambria will conduct a Public Hearing at the Cambria Town Hall, 4160 Upper Mountain Road, Sanborn, New York 14132, on the 8th day of August, 2013 at 8:00 p.m. to hear and consider the adoption of a proposed local law entitled-

Town of Cambria Local Law No. 2- 2013 a Local Law entitled “Property Maintenance Local Law for the Town of Cambria, Niagara County, New York”

A description of the Local law contents:

- Section 1 ó Legislative Intent and purpose
- Section 2 ó Definitions
- Section 3 ó Excessive growth of brush, weeds and accumulation of debris
- Section 4 ó Removal by owner or occupant of land
- Section 5 ó Inspection, notice to comply and removal by Town
- Section 6 ó Exemptions
- Section 7 ó Penalties for offenses

A copy of proposed Local Law No. 2 ó 2013 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.

Supervisor Ellis stated that, on August 1, 2013, following the meeting with the fire companies, the Town Board reviewed and discussed the local law. Board members agreed to some changes to the law as it was published, which are as follows:

Under definition of a Building/Structure the word ‘animals’ has been eliminated.

Building/Structure – any building/structure having a roof supported by columns or by walls and intended for shelter, housing, protection or enclosure of persons or property.

Under definition of Improved Lot ó added the words “or other”

Improved Lot – any lot or parcel located within any zoning district within the Town of Cambria which has been improved by the construction of a residential building or other structure thereon.

Under definition of Rubbish change to read:

Rubbish – any material reasonably categorized as trash, scrap or refuse.

Under Section 5 ó Inspection, Notice to Comply and Removal by Town ó last sentence should read:

Ten (10) days after mailing said letter, the Town shall make an inspection and, if the violation still exists, the Building Inspector / Code Enforcement Officer may enter upon the real property containing such

Town of Cambria as Follows:

purpose

2. Definitions
3. Excessive growth of brush, weeds and accumulation of debris and rubbish prohibited
4. Removal by owner or occupant of improved lot
5. Inspection, notice to comply and removal by Town
6. Assessment of Expenses
7. Exemptions
8. Penalties for offenses

SECTION 1. LEGISLATIVE INTENT AND PURPOSE

The Town Board of the Town of Cambria recognizes and declares that the uncared for and neglectful attention to the growth of grass, brush, weeds and other vegetation and the accumulation of debris and rubbish on improved lots within the Town of Cambria, as defined in this local law, can result in risks to public health and become a visual and aesthetic blight on neighboring properties. This neglect or lack of concern is often manifested in abandoned properties and/or unoccupied buildings. While it is recognized that certain vegetation is desirable to be maintained for natural habitats and other legitimate purposes, the failure of property owners to care for their property through neglect or lack of concern requires that measures be taken to ensure the maintenance of properties in all districts within the Town of Cambria.

The intent of this local law is to establish a legal procedure for the cutting/removal of brush, weeds, grass, noxious growths, debris and rubbish where the existence of same, when, as determined by the Building Inspector/Code Enforcement Officer, are a source of potential harm. These property maintenance deficiencies pose a threat to public health and constitute a blight on the town's landscape, depreciating not only the property on which they are located, but also the property of other persons in the neighborhood and in the town generally.

SECTION 2. DEFINITIONS

As used in this local law, the following terms shall have the meanings indicated:

AGRICULTURAL LAND - Includes land used for the production of crops, plants, vines and trees.

BRUSH - Includes low woods, undergrowth, seasonal growth and chopped off tree branches, except trees or shrubbery intended and actually used for landscaping, fencing, shade or decoration.

BUILDING/STRUCTURE- any building/structure having a roof supported by columns or by walls and intended for shelter, housing, protection or enclosure of persons or property.

DEBRIS - Includes broken, scattered or deteriorating remains of man-made objects, including, but not limited to, old tires, appliances, automobiles, rotting wooden objects and rusting metallic objects.

IMPROVED LOT - any lot or parcel located within any zoning district within the Town of Cambria which has been improved by the construction of a residential building or other structure thereon.

LAND - Includes residential, industrial and commercial lots, building lots and subdivided parcels which are not being actively farmed.

PERSON - Includes one (1) or more natural persons, corporations, partnerships, associations, joint-stock companies societies, and all other entities of any kind.

RUBBISH - Any material reasonably categorized as trash, scrap or refuse.

WEEDS - Vegetation that grows in profusion in an uncultivated state and which is allowed to exceed ten (10) inches in height. For the purposes of this section, the term "weeds" shall not include vegetation such as growing crops, trees, bushes or shrubs used for landscaping purposes around or near a structure.

SECTION 3. EXCESSIVE GROWTH OF BRUSH, WEEDS AND ACCUMULATION OF DEBRIS AND RUBBISH PROHIBITED

It shall be unlawful for any person having control or ownership or any type of tenancy of occupied or unoccupied improved lot or any part thereof in the Town of Cambria, New York, to permit or maintain on any such land or portion thereof, an accumulation of brush, weeds, grass, or other rank vegetation to an average height greater than ten (10) inches or to permit the accumulation of debris or rubbish as defined in this local law.



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Improved lot or portion thereof or along the street, road or sidewalk adjacent to the improved lot or portion thereof between the property line and the curb (or stabilized shoulder, if there be no curb) or within fifteen (15) feet of the front, side or rear lot line furthest from the principal building or any building on the property.

SECTION 4. REMOVAL BY OWNER OR OCCUPANT OF IMPROVED LOT

It shall be the duty of every owner, occupant, tenant or person in control of improved lot or any portion thereof in the Town of Cambria, New York, to cut and remove or cause to be cut or removed from said property all debris, rubbish, brush, weeds, grass or other rank, poisonous or noxious vegetation as often as may be necessary to comply with the provisions of this local law.

SECTION 5. INSPECTION, NOTICE TO COMPLY AND REMOVAL BY TOWN

The Building Inspector/Code Enforcement Officer is authorized and directed to make inspections of premises within the Town of Cambria as deemed necessary to ascertain compliance with this local law and shall have the authority to contract for any and all necessary services to effectuate enforcement of this local law. When the Building Inspector/Code Enforcement Officer determines that the provisions of Section 3 of this local law are not being complied with, he shall cause a letter to be mailed to the owner of the property to the address as set forth in the Town Assessor's records. Ten (10) days after mailing said letter, the Town shall make an inspection and, if the violation still exists, the Building Inspector/Code Enforcement Officer may enter upon the real property containing such condition and shall cause the debris, rubbish, brush, weeds, grass and other vegetation on such lands to be removed or cut at the cost and expense of the owner of record.

SECTION 6. ASSESSMENT OF EXPENSES

The Building Inspector / Code Enforcement Officer shall employ an independent contractor to perform the work. A Request for Proposals (RFP) shall be written to solicit proposals with the intent of establishing a list of three (3) preferred contractors capable of doing the work. The owner of the property shall be billed the amount charged by the contractor plus a 20% charge to cover Town administrative costs.

If none of the preferred contractors are available to perform the work or as circumstances may warrant, in the opinion of the Building Inspector / Code Enforcement Officer, Town forces may be utilized. If Town forces perform the work, they shall keep an accurate and itemized assessment of the expenses incurred for all labor, equipment and materials furnished and any other costs incurred. All bills shall reflect a minimum charge of five (5) hours labor and equipment time plus a 20% charge to cover Town administrative costs.

The Building Inspector / Code Enforcement Officer shall mail a statement to said owner of record requesting the payment of such cost, which shall become due and payable within thirty (30) days from the mailing thereof. In the event that payment is not made within the specified time period, the expenses incurred by the Town shall become a lien upon the real property on which it is levied and charged until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges.

SECTION 7. EXEMPTIONS

Agricultural land, as defined in this local law, shall be exempt from the provisions of this local law.

SECTION 8. PENALTIES FOR OFFENSES

Any person who shall neglect to cut and remove weeds, grass or other vegetation as directed in this local law or who shall fail, neglect or refuse to comply with the provisions of any notice herein provided or who shall resist or obstruct the Building Inspector/Code Enforcement Officer or other Town employees in the cutting and removing of weeds, grass and other vegetation shall be guilty of a violation and, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars (\$250.00), and each day on which such violation continues shall constitute a separate offense.

Upon a motion duly made by Councilman Foe and seconded by Councilman Blackman, to approve Local Law No. 2, 2013, "Property Maintenance Local Law for the Town of Cambria, Niagara County, New York", as amended.

Ayes: Blackman, Ellis, Foe, Roberts

-Motion Carried-

Councilman Roberts, Recreation Liaison reported:

Summer Recreation ~ Sally Marotta-Reed, Summer Recreation Director, was congratulated on another successful Summer Recreation Program.

Baseball ~ Rodney Hogg reported to Mr. Roberts that the 12 U Girls team won the Metro Championship, 12 U Boys won the Clarence Championship, 17 U Boys Travel team won the GLVL Canadian Tournament and runner up in the New Era Tournament. Cambria was very well represented.

Soccer Program ~ A soccer program is being planned for Cambria for the fall season. Councilman Roberts introduced Mark Miller, Buffalo Soccer Shots. Mr. Miller gave a brief presentation of the program he and Sally Reed would like to bring to the Cambria Town Park. There will be no cost to the Town except for the use of green space, coaches are trained volunteers and it is for ages 2-8. This is a national program and has been in existence for 13 years.

Mr. Roberson, Attorney, suggested to Mr. Miller that he submit a letter to the Town including pertinent information regarding the soccer program presented tonight, requesting authority from the Town to use a portion of the Town Park and for him to indicate that all the proper insurance will be in place before the season starts.

Upon a motion duly made by Councilman Foe and seconded by Councilman Roberts, it was resolved to authorize Supervisor Ellis to enter into a contract with Buffalo Soccer Shots for a fall soccer program, estimated start date September 14, 2013, pending letter, insurance and review by the Town Attorney.

Ayes: Blackman, Ellis, Foe, Roberts -Motion Carried-

CONCERNS OF CITIZENS

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

SERVICE AWARD PROGRAM (SAP) PUBLIC HEARING

Supervisor Ellis asked the Board for a motion to schedule a public hearing on September 12, 2013, 8pm for a proposed increase in the annual Service Award contributions for firefighters.

Upon a motion duly made by Councilman Foe and seconded by Councilman Blackman, it was resolved to schedule a public hearing on September 12, 2013, 8pm for a proposed increase in the annual Service Award contributions for firefighters from \$550.00 to \$650.00, thereby increasing the Fire Protection district budget to \$6,600.00.

Ayes: Blackman, Ellis, Foe, Roberts -Motion Carried-

ZONING BOARD OF APPEALS RESIGNATION

Supervisor Ellis is in receipt of a letter of resignation from John Reardon, presently serving as the Chairman of the Zoning Board of Appeals, effective August 31, 2013. Mr. Reardon served on the Recreation Committee in 1993 and was appointed to the Zoning Board in April of 1998. He has served as Chairman since January 2008.

Upon a motion duly made by Councilman Roberts and seconded by Councilman Blackman, it was resolved to accept, with regret, the resignation of John Reardon from the Zoning Board of Appeals effective August 31, 2013.

Ayes: Blackman, Ellis, Foe, Roberts -Motion Carried-

RESIDENTIAL ELECTRONIC WASTE RECYCLING

Supervisor Ellis explained that, with the closing of the Niagara County Refuse District Landfill, Modern will be handling electronic recycling within the next month. However, through Regional Computer Recycling and Recovery, the Town will have the opportunity to have a recycling program on site at the Highway Garage.

Upon a motion duly made by Councilman Foe and seconded by Councilman Roberts, it was resolved to authorize the Supervisor to engage Regional Computer Recycling and Recovery of Victor, NY, to



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the Town of Cambria by registering with the NYS DEC as an

Ayes: Blackman, Ellis, Foe, Roberts

-Motion Carried-

RESOLUTION: INTERNATIONAL JOINT COMMISSION PLAN 2014

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

**REQUEST TO THE INTERNATIONAL JOINT COMMISSION
 TO REJECT THE PROPOSED PLAN 2014 IN ITS ENTIRETY**

WHEREAS, the International Joint Commission (IJC) has announced consideration of a new plan that will replace the current regulation plan (58DD) that controls water levels of Lake Ontario and the stated purpose of the new plan, known as PLAN 2014 is to reverse environmental damage caused by the current regulation plan (58D), particularly with regard to the restoration of 65,000 acres of shoreline meadow marsh; and

WHEREAS, PLAN 2014 will increase the current range of water levels that private and public riparian property owners relied on for the last 50 years and according to a peer review conducted by the National Academy of Sciences, the potential environmental benefits of the PLAN 2014 are based upon speculative and unreliable research; and

WHEREAS, projected lake levels under the proposed plan will result in increased duration and frequency of high and low water, significantly increasing the potential for damages to Lake Ontario riparians (estimated at over \$2.2 million per year, which is likely an underestimate) and negatively impacting sport fishing and recreational boating economics across the entire region (estimated at over \$94 million per year); and

WHEREAS, PLAN 2014 greatly decreases protections that exist in the current plan, replacing them with a plan that results in the transfer of prosperity from Wilson and Niagara County along with other Lake Ontario communities to Hydropower (NYPA and others) who will realize a benefit of approximately \$5.3 million per year on average; and

WHEREAS, Niagara County residents who own property or businesses along the Lake Ontario shore, including its bays, tributaries and ponds, have voiced their concern about a proposed change in the lake levels that would result in significant damage to their properties, and a corresponding decrease in revenues from recreational boaters and fishermen, both locally-based and those traveling internationally; and

WHEREAS, Niagara County residents and elected officials are resolute in protecting the waters, streams, and harbors of Lake Ontario, the home for some of the best sport fishing, pleasure sailing and power-boating in the world; and

WHEREAS, modifying the current range of operation by PLAN 2014 further hinders boating access and when combined with the protracted absence of federal funding for maintenance dredging of our federal shallow draft harbors, will cause significant and measurable negative financial impacts to the local and regional economy; now, therefore, be it

RESOLVED, the Town Board of the Town of Cambria does herewith respectfully request that the International Joint Commission *reject* in its entirety all current plans for the implementation of the PLAN 2014; and be it further

RESOLVED, that the IJC immediately enact a moratorium on the development of any future proposals to modify the range of water levels on Lake Ontario until the completion of a thorough, objective and all inclusive analysis of the potential economic damages on tourism, recreation, business and residences along the south shore of Lake Ontario (including properties located along harbors, rivers and streams) with a specific section dedicated to the thorough evaluation of damages in Niagara County where impacts have been identified as the most acute; and be it further

RESOLVED, that as part of this study, the Town of Cambria further recommends the Commission also assess the amount of civil work and financial assistance required to mitigate the damage of any future plans, and identify funding sources available to offset said actions; and be it further

RESOLVED, that this study must also evaluate the environmental impacts of repeated flooding of the built environment, to include the identification of the constituents of point and non-point source runoff and the impacts of sediment and nutrient loading on the quality of water in the impacted areas; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the International Joint Commission, Governor Andrew M. Cuomo, the New York Department of State, Joe Martens, Commissioner of the New York State Department of Environmental Conservation, the New York State Environmental Facilities Corporation, U.S. Senator Charles E. Schumer, U.S. Senator Kirsten E. Gillibrand, U.S. Congressman Chris Collins, Senate Environmental Conservation Committee, State Senator George Maziarz, Assemblywoman Jane Corwin, and all others deemed necessary and proper.

Upon a motion duly made by Councilman Roberts and seconded by Councilman Blackman, it was resolved to support the resolution to reject the Plan 2014 in its entirety.

Ayes: Blackman, Ellis, Foe, Roberts

-Motion Carried-



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Grinder Pumps for stock/inventory; sole source situation.

Upon a motion duly made by Councilman Foe and seconded by Councilman Roberts, it was resolved to accept the proposal from Fluid Kinetics, Inc., in the amount of \$7,179.00, for three grinder pumps at \$2,393 each.

Ayes: Blackman, Ellis, Foe, Roberts

-Motion Carried-

ADJOURNMENT

As there was no further business, the meeting was adjourned by motion made by Councilman Roberts and seconded by Councilman Blackman. Time: 9:15 pm.

Respectfully submitted,

Lou Ann Murawski, Town Clerk