

TOWN OF CAMBRIA TOWN BOARD

October 12, 2017

The regular meeting of the Town of Cambria Town Board was held at 7:00 pm on the 12<sup>th</sup> day of October 2017 at the Town Hall, 4160 Upper Mountain Road, Town of Cambria, New York.

BOARD MEMBERS PRESENT:

Wright H. Ellis, Supervisor  
Matthew Foe, Councilman  
Jeffrey S. Hurtgam, Councilman  
Joseph Ohol, Councilman  
Randy M. Roberts, Councilman

ALSO PRESENT:

Tamara J. Cooper, Town Clerk  
Jon MacSwan, Highway Superintendent  
Gary Billingsley, Attorney  
Jamie Johnson, Wendel  
David Godfrey, Legislator  
11 interested persons

Following salute to the flag, Supervisor Ellis called the meeting to order. The Town Board took action on the following matters:

APPROVAL OF MINUTES

Upon a motion duly made by Councilman Hurtgam and seconded by Councilman Roberts, it was resolved to approve the Minutes of the Town Board meeting of September 14, 2017-work; September 14, 2017-regular; September 21, 2017.

Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts

-Motion Carried-

APPROVAL OF VOUCHERS

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

Cemetery Fund	Claim	8	\$ 12.98
General Fund	Claims	475-520	\$ 41,991.16
Highway Fund	Claims	160-179	\$ 102,247.60
Recreation Fund	Claims	40-41	\$ 1,400.00
Refuse Fund	Claims	15	\$ 28,582.83
Sewer Operating Fund	Claim	32-36	\$ 576.68
Town Park-Capital Projects	Claim	9	\$ 20,161.00
Trust and Agency Fund	Claim	21-25	\$ 1,527.34
Water Operating Fund	Claims	145-160	\$ 39,479.31

Upon a motion duly made by Councilman Foe and seconded by Councilman Ohol, it was resolved that the abstract of audited vouchers dated October 12, 2017, be approved as read by the Town Clerk.

Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts

-Motion Carried-

NIMAC- *Niagara Military Affairs Council*

Supervisor Ellis indicated that the Town of Cambria supports the Niagara Falls Air Reserve Station with an annual budgetary contribution. He then introduced John Cooper, NIMAC (*Niagara Military Affairs Council*) Chairman to the Board of Directors, to give a brief presentation on the status of the Air Base.

Mr. Cooper thanked the Town Board for their continued support and provided each member with a folder containing information about NIMAC. The Niagara Military Affairs Council (NIMAC), an all-volunteer organization, was established in 1995 after the BRAC process, when the 914<sup>th</sup> Airlift Wing was reviewed for possible closure. Since that time NIMAC has been the community lead in assisting NFARS through the BRAC process in 2005 and budget action listing the 107<sup>th</sup> for closure in 2012. For the past several years NIMAC's goal has been to secure enduring missions for the Niagara Falls Air Reserve Station. Mr. Cooper was pleased to announce that the wings now have long term missions-the 914<sup>th</sup> will change designations from the Airlift Wing to the 914<sup>th</sup> Air Refueling Wing and the 107<sup>th</sup> will now be known as the Attack Wing.

Mr. Cooper announced in 2018 on June 9 & 10 there will be an airshow at the Air Base and the Thunderbirds will be there.

The Air Base is an important part of our community and is the largest employer in the county. NIMAC remains committed to keeping educated on the needs of the installation and the Department of Defense. The Air Base also received a \$750,000.00 grant sponsored by Senator Ortt for two fire trucks that will be used in mutual aid.

#### **SOLAR/WIND ENERGY SYSTEMS/LOCAL LAW AMENDMENT**

Supervisor Ellis indicated that a Public Hearing on the Solar/Wind Energy Systems Local Law Amendment was held at the September Town Board Meeting at which time the Board designated itself as Lead Agent under SEQR. The DEC and Niagara County Planning have received the amendments and have no objections to the changes and conclude that the changes will result in no significant adverse impacts on the environment.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam, it was resolved approve the SEQR Finding of Negative Declaration with regard to the Solar/Wind Energy System Local Law Amendments.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts**

**-Motion Carried-**

#### **PROPOSED AMENDMENTS TO LOCAL LAW NO. 1 OF THE YEAR, 2015**

##### *Article I. Large-Scale and Utility-Scale Solar Energy Systems*

###### Section 1. Purpose

Amend Section 1. , paragraph C.,definition (7), as follows:

- (7) Small Scale Solar Energy System
  - (2) Consists of an overall footprint of less than 5,000 square feet or as restricted in Article II. of this law. Overall footprint shall be determined by the outline created on the building/structure or the ground.

###### Section 3. Permits and Approvals Required and Applicable Zoning Districts

Amend Section 3., by adding a new item (E.) as follows:

- E. Any large-scale solar energy system to be used strictly for agricultural use purposes in accordance with NYS Agriculture and Markets Law, may have some requirements of this article waived by the Building Inspector or the Planning Board and will include an expedited approval process, as necessary.

###### Section 4. Applications for Solar Energy Systems

Amend Section 4., paragraph C. by adding new items (9) and (10) as follows:

- (9) A sign not to exceed 8 SQ. FT. shall be displayed on or near the main access point and shall list the facility name, owner, and telephone number; and
- (10) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers or substations not to exceed four square feet.

###### Section 6. Abandonment or Decommissioning

Amend Section 6., by removing existing paragraphs B. and C. and replacing with new paragraphs B. and C. as follows:

- B. A Decommissioning Plan to ensure the proper removal of utility-scale solar energy systems is to be submitted as part of the special use permit application to the Building Inspector for approval. The Plan must specify that after the utility-scale solar energy system is no longer in use (as determined by the owner/operator or the Building Inspector), it shall be removed by the applicant or any subsequent owner. The Decommissioning Plan shall identify the anticipated life of the project. The Plan shall demonstrate how the removal of all infrastructure and restoration shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate for decommissioning prepared by a Professional Engineer or qualified Contractor. Cost estimates shall take inflation into consideration and be revised every five (5) years during operation of the system and include any salvage value. Removal of the large-scale solar energy system must be completed in accordance with the approved Decommissioning Plan and the standards provided as follows:

- (1) All structures and foundations associated with the large-scale solar energy systems shall be removed;
- (2) All disturbed ground surfaces shall be restored to original conditions including topsoil and seeding as necessary; and
- (3) All electrical systems shall be properly disconnected and all cables and buried wiring shall be removed.

- C. A bond or other approved security shall be provided to cover the cost of removal and restoration of the area impacted by the solar system. Security shall be in an amount equal to 150% of the construction estimate as presented in the approved decommissioning plan. The bond shall be renewed every five (5) years or, as necessary, to reflect adjustments in the projected cost of decommissioning.

Add the following new section under this Article:

#### Section 8. Maintenance Procedure, and Fees

- A. Time limit on completion. After the granting of a special permit of a utility-scale solar energy system with concurrent site plan approval or site plan approval of a freestanding or ground-mounted solar energy system by the Planning Board, the building permit shall be obtained within six months and the project shall be completed within twelve months. A six month extension to obtain a building permit or the completion time can be issued by the Planning Board upon application by the applicant. If not constructed, the special permit and/or site plan approval shall automatically lapse within twelve months after the date of approval by the Town of Cambria Planning Board (unless an extension is granted).
- B. Inspections. Upon reasonable notice, the Town of Cambria Building Inspector or his or her designee may enter a lot on which a solar energy system has been approved for the purpose of compliance with any requirements or conditions. Twenty-four (24) hours advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a utility-scale solar system shall be inspected annually by a New York State licensed professional engineer who has been approved by the Town or at any other time, upon a determination by the Town's Building Inspector that damage may have occurred, and a copy of the inspection report shall be submitted to the Town Building Inspector. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.
- C. General complaint process. During construction, the Town Building Inspector can issue a stop order at any time for any violations of a special permit or building permit. After construction is complete, the permit holder of a utility-scale solar energy system shall establish a contact person, including name and phone number, for receipt of any complaint concerning any permit requirements.

### *Article II. Small-Scale Solar Energy Systems*

#### Section 3. Small-Scale Solar Energy Systems

Amend Section 3.C., by deleting existing part (C.) and replacing with new text as follows:

- C. Small-scale solar energy systems located in the Agricultural and Residence A-R; Residence R-1; Light Retail Business B-1; General Business B-2; Escarpment; Medium Density Residential; and Recreational-Campground R-C are permitted if they contain solar collectors (up to 5,000 square feet) located on the rooftops of principal or accessory buildings. The solar collectors must be completely contained within the limits of the building roof. All other equipment and components of the solar energy system shall be located within the rear yard only and are subject to setbacks for accessory structures.

Amend Section 3, by adding the following new paragraphs:

- D. Small-scale solar energy systems featuring rooftop-mounted solar collectors (up to 5,000 square feet) on the rooftops of principal or accessory buildings are also permitted in the Industrial, I-1 and Planned Development, PD zoning districts. Rooftop mounted solar collectors must be completely contained within the limits of the principal or accessory building's roof.
- E. Rooftop and building-mounted, small-scale solar energy systems exceeding 750 SQ. FT. in size shall require site plan approval by the Town Planning Board.
- F. In the Agricultural and Residence A-R; Residence R-1; Medium Density Residential; Recreational-Campground R-C; and Escarpment zoning districts, ground-mounted solar

units 500 SQ. FT. or less will be allowed as an accessory structure by site plan approval by the Town Planning Board.

1. Units shall be prohibited from any side or front yard as defined by the Town Code.
  2. Units shall be placed a minimum of 20 feet from any property line. In no case shall the Zoning Board of Appeals grant a variance of this setback requirement that would result in a setback of less than 15 feet.
  3. A ground-mounted solar unit will require a special site plan application to be completed and submitted to the Town.
- G. In the Agricultural and Residence, A-R; Medium Density Residential; Recreational-Campground, R-C; and Escarpment zoning districts, ground-mounted solar units greater than 500 SQ. FT., but equal to or less than 1500 SQ. FT., will be allowed as an accessory structure by site plan approval by the Town Planning Board, on lots that are minimum of 200 feet in lot width and a minimum of 3 acres in size.
1. Units shall be prohibited from any front or side yards as defined by the Town Code.
  2. Units shall be placed a minimum of 50 feet from any property lot line. In no case shall the Zoning Board of Appeals grant a variance for these setbacks that reduces this setback to less than 40 feet.
- H. In the Light Retail Business, B-1 and General Business, B-2 zoning districts, ground-mounted solar units less than 2500 SQ. FT. in size are allowed as an accessory structure by site plan approval by the Town Planning Board.
1. Units shall be prohibited from any front or side yard as defined by the Town Code.
  2. Units shall be placed a minimum of 50 feet from any property that is zoned Agricultural and Residence, A-R; Medium Density Residential; Recreational-Campground, R-C; or Escarpment district, otherwise the setback requirement is 20 feet from a property line.
- I. It must be noted that Cambria Town Law limits lots to two (2) accessory structures per lot

*(No changes have been made to the amendments-everything is as presented at Public Hearing in September)*

**Upon a motion duly made by Councilman Roberts and seconded by Councilman Foe, it was resolved to approve the Amendments to Local Law No. 1 2015 relating regulating Solar Energy Systems.**

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

**WRIGHT H. ELLIS voting AYE**  
**MATTHEW P. FOE voting AYE**  
**JEFFREY S. HURTGAM voting AYE**  
**JOSEPH OHOL voting AYE**  
**RANDY M. ROBERTS voting AYE**

The Resolution was thereupon declared duly adopted.

Jamie Johnson, Wendel reported on the following:

#### **WATER TANK IMPROVEMENTS/WATER STORAGE TANK FALL PROTECTION SYSTEM**

Both the water tank cleaning and fall protection installation work has been completed by DN Tanks. Minor deterioration was found. Wendel is compiling a memo of their findings regarding the work done and will submit a final report for the next Town Board meeting.

#### **TOWN HALL WINDOW REPLACEMENT**

Jon MacSwan, Highway Superintendent, reported that he has received two quotes for replacement of original windows in the Town Hall: Sterling Glass-Buffalo NY in the amount of \$24,947.00 and Twin city Glass- North Tonawanda in the amount of \$30,815.00.

**Upon a motion duly made by Councilman Ohol and seconded by Councilman Foe, it was resolved to accept the proposal from Sterling Glass for replacement of certain original windows (1976) within the Town Hall in the amount of \$24,947.00.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts**

**-Motion Carried-**

## NYS COMPTROLLER AUDIT

Supervisor Ellis indicated that the Town is waiting to schedule the exit interview with the State Comptrollers office.

## 2018 TOWN BUDGET

The Town budget is in process. The first meeting was held on October 11, 2017, and the next scheduled meeting is on October 25, 2017, at 6:30 pm. The Public Hearing will be on November 9, 2017 at 7:00 pm.

## TOWN CLERK REPORTS

The Town Clerk, reported receipt of the following:

- Town Clerk Report September: Total Receipts: \$29,016.74
- Building Inspector Report September: Total fees collected: \$1,423.00  
Total estimated value of construction: \$164,800.00
- A representative from the Niagara County Veterans Agency will be at the Town Hall on Wednesday, October 18th from 10:00 am-1:30pm, please call 433-7664 to make an appointment.

## HIGHWAY SUPERINTENDENT REPORTS

The Highway Superintendent, Jon MacSwan, reported as follows:

- The Highway Department is picking up brush until November 1<sup>st</sup>.
- A new pump was installed in the excavator.
- Tire Drop off will be Saturday, October 21 from 9:00 am to 12:00 pm.

## ATTORNEY REPORTS

No reports.

## CONCERNS OF THE CITIZENS

### Charlie Dipasquale- Baer Road

Mr. Dipasquale indicated that he is in the process of putting up a 40x60 pole barn up on his property of 23 ½ acres. He appeared before the Zoning Board to obtain variance for the building and they tabled his request. Currently the Zoning Ordinance doesn't distinguish between residential smaller lots and agricultural lots of over 20 acres. There is no distinction on the sizes of buildings under the current regulations. Mr. Dipasquale wanted to know if the Town Board had any updates on the matter. The Town Board reported that there will be a Public Hearing in November to address this issue and he should have no trouble moving forward on this very soon with only needing a building permit-no variance required.

### Tim McGinnis- Baer Road

Mr. McGinnis was present to discuss what he considers the bar at 4515 Baer Rd. It was brought to his attention that the Town of Cambria has a Noise Pollution Ordinance and he wanted the Town Board to be aware that it indicates that no person shall cause any noise which can be heard beyond boundaries of their property. *(The entire ordinance is available on the Town of Cambria website under the Town Clerk tab- Ordinances)* Mr. McGinnis feels that with the addition of the new pavilion the noise will be an even greater nuisance. The Sheriff's Department will enforce this ordinance and the State Liquor Authority will also be notified of any disturbance.

Mr. McGinnis also indicated that the owner of 4515 Baer Rd. has sent a letter to local wineries and campgrounds stating that he is being bullied by neighbors. He wanted to speak for himself and state to the Board that what he is doing is presenting the facts and local codes /violations etc. Mr. McGinnis would like the Town Board to read the letter.

### Jennifer Malaney-Baer Road

Ms. Malaney lives next door to 4515 Baer Rd., A Gust of Sun Winery. She also voiced her dissatisfaction with the business and the letter that is being circulated about the neighbors. She said the letter stated that the owners of the winery do not grow 51% of what they sell. The Ag & Market Law indicates a winery has 5 years to produce 51%. Ms. Malaney says it has been six years and he still does not grow 51%. *(The above mentioned letter is on file in the Town Clerk's office)* Supervisor Ellis said the concerns are being looked into.

Ms. Malaney also expressed her concern with the amount of traffic the winery receives and the buses, school buses and limousines that park outside her patio when the parking lot is empty. This exposes her to the large number of people coming on and off the bus that have been drinking. She asked if the Town can do something about signage and parking areas. There is also a concern over the occupancy of the current building and having only one bathroom.

**Dave Edbauer-4715 Plank Road**

Mr. Edbauer stated he was sad to see the solar glare part of the local law is still intact. He feels this is the type of law that can be used as retaliation against a neighbor. He feels that the law needs to be objectified so neighbors can protect themselves. Solar is only going to increase in the town and if you get an angry neighbor, it can always be brought up as a violation. He hopes the Town Board will take this under consideration.

Mr. Edbauer also said he didn't want to always come across as negative. He indicated that he appreciates a lot of the work the Town Board does. Councilman Foe brings really good insight to the Board in terms of infrastructure and asks good objective questions in order to keep consultants in line. Councilman Ohol and Councilman Roberts are really good at watching the bottom line and looking for ways to save the Town money. Councilman Roberts looks for alternative income for the baseball diamonds/town park- for example by suggesting advertising be placed on the fences for a price to help defray the cost. Mr. Edbauer feels it is a good idea even though it didn't go over too well and said "Don't give up"

Supervisor Ellis extended thanks to Legislator Godfrey for the Casino Funds in the amount of \$1,500.00 that will go toward the Town's Recreation Program.

**Eric Sherwood- Sanborn Fire Company**

Mr. Sherwood was in attendance to confirm a meeting between the Town Board and the Sanborn Fire Company. Supervisor Ellis confirmed: November 1, 2017 @ 6:30 pm. A brief discussion followed.

**PROCUREMENT POLICY PURCHASES  
SEWER OPERATING**

Supervisor Ellis indicated there is a need for grinder pumps for stock and also for a new installation at 5839 Shawnee Rd. Fluid Kinetics, Inc. is a sole provider in the amount of \$13,451.00.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam, it was resolved to accept the proposal from Fluid Kinetics, Inc. (sole provider) for grinder pumps in the amount of \$13,451.00.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts -Motion Carried-**

**THRALL ROAD SPEED REDUCTION**

Supervisor Ellis and Jon MacSwan, Highway Superintendent are in receipt of a request and a petition from the residents on Thrall Road to have the speed limit reduced.

Bryce McMichael, Robert Blackman, JC Rappolt were all present to voice their concerns regarding the speed limit on Thrall Road.

- Coming off the escarpment end of Thrall ó drivers tend to accelerate quickly
- Passing zones are small
- School buses are reporting that cars are passing stopped school buses
- Danger to residents crossing the road to get their mail
- New road surfacing makes the speed limit hard to maintain ó locals are respectful but new people and contractors less so
- Slow moving farm vehicles/equipment
- Bicycle races use Thrall as part of their trail

Mr. McGinnis stated that there was a similar issue on Baer Road and neighbors called the Sheriff's Department to patrol more and it seems to have helped. He offered it as a suggestion.

Mr. MacSwan stated he will check into "Slow Down We Love Our Children" signs for the area while waiting for a response from the county.

Supervisor Ellis indicated that the petition with the Town Board's endorsement will be forwarded to the County by the Highway Superintendent.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam, it was resolved approve and forward the Speed Reduction Petition for Thrall Road to the Department of Transportation by way of Highway Superintendent and the Niagara County Department of Public Works.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts -Motion Carried-**

**SAM GRANT DISBURSEMENT AGREEMENT**

Supervisor Ellis indicated that in the spring of 2016 a grant for \$50,000.00 was obtained by Senator Ort's office, for the Town of Cambria. It was turned over to the NYS Dormitory Authority to administer the payment. The paperwork was voluminous and has taken the better part of a year to complete and respond to their requests for information. The Town of Cambria has received the grant disbursement agreement. It has been reviewed by the Supervisor and the Town Attorney and he has given an opinion of counsel.

