

**TOWN OF CAMBRIA TOWN BOARD**

**JANUARY 25, 2011**

A special meeting of the Town of Cambria Town Board was held at 11:30 am on January 25, 2011 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  
Joseph Ohol, Councilman  
Randy M. Roberts, Councilman

**ALSO PRESENT:**

Tamara J. Cooper, Deputy Town Clerk  
Robert S. Roberson, Attorney

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

**ARTICLE 78 PROCEEDING AND DECLARATORY JUDGEMENT ACTION FOR THE APPLICATION SUBMITTED BY DUNCAN J. ROSS AND ROBIN M. ROSS.**

After a brief discussion regarding the above article 78 Proceeding, Attorney Roberson read the following stipulation:

**STIPULATION**

**WHEREAS**, the above-entitled combined Article 78 Proceeding and Declaratory Judgment Action was commenced by filing the Verified Petition/Complaint on December 28, 2010 in the Niagara County Clerk's Office;

**WHEREAS**, Petitioners-Plaintiffs, by their Verified Petition/Complaint, have requested an order and judgment, *inter alia*: (1) reversing the November 29, 2010 determination by the Town of Cambria Planning Board which denied Petitioners' application for site-plan approval for the construction of a small wind turbine for agricultural purposes; (2) ordering the Planning Board to approve Petitioners' site plan for their small wind turbine project; (3) directing Respondent Town Building Inspector Clifford Burch or Donald Lane to issue building permits for Petitioners-Plaintiffs' small wind turbine project;

**WHEREAS**, Petitioners-Plaintiffs and Respondents-Defendants desire to settle this proceeding/action in accordance with the terms and conditions of this Stipulation set forth herein below;

**NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by the parties as follows:

The Decision of the Town of Cambria Planning Board denying Petitioners-Plaintiffs' application for site-plan approval, dated November 29, 2010 and filed in the Town of Cambria Clerk's office on December 6, 2010, is declared null and void and site-plan approval is granted as requested;

1. The Town of Cambria shall issue building permits necessary for the construction of Petitioners-Plaintiffs' 10-kW wind turbine project;
2. The remainder of Petitioners-Plaintiffs' claims are hereby dismissed without prejudice;
3. The parties agree that this settlement is in the public interest in recognition that the Town of Cambria Planning Board incorrectly interpreted a provision of Town of Cambria Local Law No. 1 of 2009 in a manner which misled the Planning Board; and
4. Either party may apply to the New York State Supreme Court for an order or judgment consistent with the terms hereof without notice to the other party.

**Upon a motion duly made by Councilman Bush and seconded by Councilman Ohol it was resolved to approve the stipulation and settlement as set forth in the stipulation and authorize Attorney Robert Roberson to sign it on behalf of the Town Board.**

**Ayes: Blackman, Bush, Ellis, Ohol, Roberts**

**-Motion Carried-**

The meeting was adjourned at 12:05 pm by motion made by Councilman Bush and seconded by Councilman Blackman.

Respectfully submitted,

Tamara J. Cooper, Deputy Town Clerk

