

**Approved**

**TOWN OF CAMBRIA TOWN BOARD**

**February 10, 2022**

The regular meeting of the Town of Cambria Town Board was held at 7:00 pm on the 10<sup>th</sup> day of February 2022 at the Town Hall, 4160 Upper Mountain Road, Town of Cambria, New York.

**BOARD MEMBERS PRESENT:**

Wright H. Ellis, Supervisor  
Matthew P. Foe, Councilman  
Jeffrey S. Hurtgam, Councilman  
Benjamin D. Musall, Councilman  
Randy M. Roberts, Councilman

**ALSO PRESENT:**

Tamara J. Cooper, Town Clerk  
Jon MacSwan, Highway Superintendent  
Robert Roberson, Attorney  
David Godfrey, Legislator  
2 Interested individuals

Following salute to the flag, Supervisor Ellis opened the public hearing on the Proposed Amendment to the Zoning Ordinance.

**PUBLIC HEARING – Amending Zoning Ordinance Section 13.4**

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 at the Town Hall, 4160 Upper Mountain Road, Sanborn, New York, 14132 on the 10<sup>th</sup> day of February, 2022 at 7:00 p.m. to hear and consider the adoption of an amendment to Section 13.4 of the Cambria Zoning Ordinance. The Amendment proposes to change existing Section 13.4 to read:

**Z.O. § 13.4 Penalties:**

In addition to or as an alternative to any other penalty provided herein or by law, any person who violates the provisions of this ordinance shall be pay a civil penalty not exceeding Three Hundred Fifty Dollars (\$350.00) for the first civil penalty; for a second violation both of which were committed within a period of five (5) years, shall pay a civil penalty not less than Three Hundred Fifty Dollars (\$350.00), nor more than Seven Hundred Dollars (\$700.00); and upon a third or subsequent violation all of which were committed within a period of five (5) years, shall pay a civil penalty not less than Seven Hundred Dollars (\$700.00) nor more than One Thousand Dollars (\$1,000.00). Each week's continued violation shall constitute a separate violation.

The civil penalty shall be imposed by and the amount due determined by the Town of Cambria Building Inspector whenever the Building Inspector determines a violation of the Zoning Ordinance has occurred.

Any zoning application or Building Permit application received from an applicant having an unresolved civil penalty shall be deferred acceptance until the issues relating to the civil penalty are resolved.

A copy of the proposed Amendment is on file at the Town Clerk's Office located at the Town Hall, 4160 Upper Mountain Road, Sanborn, New York, 14132 and may be viewed during regular business hours.

All parties in interest and citizens will be heard at the Public Hearing to be held as aforesaid.

Supervisor Ellis asked Mr. Roberson, Attorney, to talk on the public hearing.

Mr. Roberson indicated that the current Zoning Ordinance has a number of provisions for words like conviction, imprisonment, and incarceration. These words, under the bail reform act, trigger the right of the defendant to have a

free public defender representing him/her. It also triggers pre-trial paperwork that goes along with prosecuting a crime in this state and the administrative burden trying to prosecute a crime is enormous. That is why not many smaller criminal violations are being prosecuted. The DA's office does not have the staff necessary to do all the administrative work that the law requires and it is very costly.

Mr. Roberson is recommending to the Town Board that they take words like the above mentioned out of the penalty provisions in the Zoning Violations and treat them like a civil violation with a civil penalty.

Supervisor Ellis closed the public hearing as there was no one present who wanted to be heard. 7:05 pm.

Supervisor Ellis opened the regular and Board members took action upon the following matters:

**APPROVAL OF MINUTES**

**Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam, it was resolved to approve the minutes of the Town Board meetings of January 13, 2022 work; January 13, 2022 regular.**

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

**-Motion Carried-**

**APPROVAL OF VOUCHERS**

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

<b>February 10, 2022</b>		
<b>FUND</b>	<b>CLAIM NUMBERS</b>	<b>AMOUNT</b>
<b>Cemetery</b>	<b>1</b>	<b>\$1,000.00</b>
<b>Drainage</b>	<b>1-2</b>	<b>\$6,188.20</b>
<b>General</b>	<b>37-83</b>	<b>\$123,904.63</b>
<b>Highway</b>	<b>3-20</b>	<b>\$67,481.00</b>
<b>Refuse</b>	<b>1</b>	<b>\$33,984.86</b>
<b>Sewer Op</b>	<b>2-7</b>	<b>\$3,586.31</b>
<b>Trust &amp; Agency</b>	<b>2-4</b>	<b>\$352,856.46</b>
<b>Water Operating</b>	<b>12-29</b>	<b>\$9,605.57</b>

**Upon a motion duly made by Councilman Roberts and seconded by Councilman Musall it was resolved that the abstract of audited vouchers dated February 10, 2022 be approved as read by the Town Clerk.**

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

**-Motion Carried-**

**ZONING ORDINANCE AMENDMENT**

**Upon a motion duly made by Councilman Hurtgam and seconded by Councilman Musall it was resolved to approve the existing section of the Zoning Ordinance and Amend Section 1304 as published in the notice of public hearing and as explained by Mr. Roberson, Town Attorney.**

The question of the approval 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**

**BENJAMIN D. MUSALL voting AYE**  
**RANDY ROBERTS voting AYE**

The motion was thereupon declared duly adopted.

**DISPOSAL OF TOWN PROPERTY**

**No action taken.**

**TOWN CLERK REPORTS**

The Town Clerk reported receipt of the following:

- Town Clerk Report January: Total Receipts: \$ 5,992.96
- Building Inspector Report January: Total fees collected: \$ 3,700.00  
Estimated value of construction: \$ 434,400.00
- In receipt of a letter from NYS indicating that the Local Law No.2 of the year 2021- authorizing the Town of Cambria to opt out of allowing cannabis retail dispensaries or on site consumption sites must be changed to Local Law No. 1 of the year 2022 because of the waiting period for the referendum.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam it was resolved to approve number change to Local Law No.2 of the year 2021- authorizing the Town of Cambria to opt out of allowing cannabis retail dispensaries or on site consumption sites to Local Law No. 1 of the year 2022. This is because the waiting period for the referendum ended the first week in January 2022.**

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

**-Motion Carried-**

**HIGHWAY SUPERINTENDENT REPORTS**

Jon MacSwan, Highway Superintendent, reported as follows:

- The Town has had approximately 45” of snowfall and the equipment is holding up.
- Salt supply is good.
- The park is kept clean when they can and after main roads are cleared.

**WATER SEWER REPORTS**

Jon MacSwan, Highway Superintendent, reported as follows:

- Snow is being cleared around fire hydrants.

**ATTORNEY REPORTS**

Robert Roberson, Attorney, reported on the following:

Mr. Roberson indicated that at the last meeting of the Cambria Housing Authority they authorized a request that the Town of Cambria commence an action in the Niagara County Supreme Court to seek the dissolution of the Housing Authority.

**Upon a motion duly made by Councilman Roberts and seconded by Councilman Hurtgam it was resolved to approve a resolution authorizing the Supervisor, with the Town Attorney, to commence an appropriate action in the Supreme Court in Niagara County seeking the dissolution of the Cambria Housing Authority and to further authorize the Supervisor to execute all necessary and appropriate papers.**

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

**-Motion Carried-**

Supervisor Ellis reported on the following:

**BEAR RIDGE SOLAR PROJECT**

- Supervisor Ellis put together a letter which will be mailed out to all residents next week with updates on the project.
- A meeting was held with the leadership of citizens opposed to industrial solar to address some issues now that the application has been filed. It was filed on 12/1/2021. As of 1/28/2022 it was found to be incomplete by the office of renewable energy siting. They now have 60 days to correct and respond. They received a letter about 15 pages in length detailing the issues.
- The meeting with COIS went well and understands the Town has the final legal responsibility for the actions moving forward vs. the project. The citizens group has been quite active and will be picking up the pace now that the application is in. The Town depends on them for their support.

**Sharon Tazner-Subbera Rd.**

Ms. Tazner thanked the Supervisor for the very comprehensive letter to the residents. She feels it will be a benefit to the community.

Ms. Tazner addressed Legislator David Godfrey, regarding Niagara County Industrial Development Agency recently approved tax breaks on a small 22.7 acres of farmland, independent project on Lockport Road. Ms. Tazner asked for his thoughts and whether this will have an impact on the proposed Bear Ridge Solar Project.

Mr. Godfrey was not informed of this prior to their vote and was blindsided. This was action taken by the IDA, which is independent from the County. He would recommend she/COIS reaches out and goes down the list: Chair, Majority Chair, County Manager, IDA.

**Supervisor Ellis** was also concerned. He called Bob Cliff who is a member of the IDA and former supervisor for the Town of Wheatfield. He voted no. The agreement with the IDA is that they will not enter into a PILOT agreement without authorization from the affected municipalities. In this case the Town of Wheatfield sent them a letter stating that they supported that project. They did not enter into a PILOT but did grant sales tax and mortgage relief (aprox. \$50,000.00). In the case of the Town of Lewiston, they sent a letter stating they were supporting a project on Rte. 495 across from the Immaculate Conception Church. Before the IDA meeting, they got another letter from Lewiston asking the project be put on hold so it can be handled at the Town level. Supervisor Ellis is satisfied with that and they are very small projects.

**Councilman Foe** is concerned and indicated that the IDA is supposed to be doing these developments for jobs. That project is a 1 or 2 person full time job and they are taking away \$50,000.00-\$60,000.00 that the Town of Wheatfield and the County would have received from the tax revenue. If they were to do this on a larger project, is it going to be \$200,000.00 worth of non-tax money that the county and whatever municipality doesn't get for three jobs. Prospectively the county needs to have some conversation with the IDA about why are they doing this and where is it going because we all could use some extra tax money.

**David Godfrey, Legislator-**

Mr. Godfrey responded to a request from the COIS group. There was a little confusion about a bond decommissioning vs. recycling. Bonding is required by the state which is the life of equipment. The county has said if things fail in between, the company will be responsible for the proper disposal and handling of those solar panels. The onus is on the manufacturer.

**NEW BUSINESS**

**NIAGARA COUNTY / TOWN OF CAMBRIA SNOW AND ICE CONTRACT**

Jon MacSwan, Highway Superintendent, is asking for approval of the 2021-2024 Snow and Ice contract with the County; a three year contract with the fourth year for negotiation.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam, it was resolved to approve the Snow and Ice Contract 2021-2024 and further authorizing the Highway Superintendent to sign.**

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

**-Motion Carried-**

**PROCUREMENT POLICY PURCHASES**

**2022-05 Highway**

Ford F-350 XLT Chassis Cab-Town Sign Truck- Funding for this is in the 2022/2023 Budget

Niagara County Bid. – Basil Fleet, 5111 Transit Road, Depew, NY  
Quote: \$69,402.60

**Upon a motion duly made by Councilman Roberts and seconded by Councilman Musall it was resolved to approve the purchase of a Ford F-350 XLT Chassis Cab-Town Sign Truck- Niagara County Bid. – Basil Fleet, 5111 Transit Road, Depew, NY Cost: \$69,402.60**

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

**-Motion Carried-**

**2022-04 General**

Lacrosse Goals and Nets for Town Park

Quotes:

Morley Athletic Supply - \$3,650.42

***Epic Sports - \$2,761.58***

T. Litzen Sports -\$3,211.92

**Upon a motion duly made by Councilman Musall and seconded by Councilman Foe it was resolved to approve a purchase from Epic Sports, North Bel Aire, Kansas, for 4-6x6 Lacrosse Goal and 4-heavy duty Lacrosse Nets in the amount of \$2,761.58.**

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

**-Motion Carried-**

**2022-03 General**

Baseball Back Stops- for two new ball diamonds at Town Park.

Fox Fence, Niagara Falls –only qualified vendor in Western NY.  
Quote: \$22,693.19

**Upon a motion duly made by Councilman Hurtgam and seconded by Councilman Roberts it was resolved to approve a purchase from Fox Fence, Niagara Falls –only qualified vendor in Western NY, for baseball back stops for t-ball and boys small diamond at the Town Park in the amount of \$22,693.19.**

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

**-Motion Carried-**

**TOWN PARK LEASE**

Supervisor Ellis talked with the Brachmann's regarding extending their current lease of 30 undeveloped acres at the Town Park for one year at an increased cost of \$50.00 an acre.

**Upon a motion duly made by Councilman Hurtgam and seconded by Councilman Roberts it was resolved to grant a one-year extension of the lease for 30 acres of undeveloped Town Park property with Danielewicz Farm Inc. for one year expiring 12/31/2022 all present terms and conditions apply with exception of an increase to \$50.00 an acre.**

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

**-Motion Carried-**

**ADJOURNMENT**

As there was no further business, the meeting was adjourned by motion made by Councilman Foe and seconded by Councilman Musall. Time: 7:35 pm

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

**-Motion Carried-**

Respectfully submitted,

Tamara J. Cooper, Town Clerk