

TOWN OF CAMBRIA TOWN BOARD

March 12, 2020

The regular meeting of the Town of Cambria Town Board was held at 7:00 pm on the 12th day of March 2020 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
Tim Walck, Wendel Engineer
30 interested individuals

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

APPROVAL OF MINUTES

Upon a motion duly made by Councilman Roberts and seconded by Councilman Hurtgam, it was resolved to approve the minutes of the Town Board meetings of February 13, 2020, regular and work meeting.

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:

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Cemetery	2	\$12.49
Drainage	5	\$180.00
General	84-139	\$108,199.62
Highway	25-41	\$83,167.53
Refuse	3 & 4	\$30,982.19
Sewer Operating	11-13	\$1,786.75
Trust & Agency	5	\$2,500.00
Water Construction	4	\$4,206.65
Water Operating	40-56	\$10,731.51

Upon a motion duly made by Councilman Foe and seconded by Councilman Musall it was resolved that the abstract of audited vouchers dated February 13, 2020, be approved as read by the Town Clerk.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts

-Motion Carried

Tim Walck, Wendel Engineers, reported on the following:

SAUNDERS SETTLEMENT ROAD WATERLINE REPLACEMENT

The contract for work on the Saunders Settlement Road Waterline replacement have been signed by the contractor and the Town. 4th Generation is working on getting their highway work permit from DOT. Anticipated starting date is mid-May beginning at the Baer Rd. end of the project.

TOWN CLERK REPORTS

The Town Clerk reported receipt of the following:

- Town Clerk Report February: Total Receipts: \$48,277.79
- Building Inspector Report February: Total fees collected: \$ 1,287.50
Total estimated value of construction: \$166,940.00
- Request from Pekin Fire Co. to remove Kaitlin Kroening, 4374 Upper Mountain Rd. from the active roster.

Upon a motion duly made by Councilman Foe and seconded by Councilman Roberts it was resolved to remove Kaitlin Kroening, 4374 Upper Mountain Rd. from the active roster of Pekin Fire Co.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts

-Motion Carried-

HIGHWAY SUPERINTENDENT REPORTS

The Highway Superintendent, Jon MacSwan, reported as follows:

- Replacement lights for the Town Board room are in quarantine in San Diego because of the corona virus.
- Fixing the meter at the Old Highway Garage.
- Preparing roads for paving-Subbera Rd., Andrews Rd. and Meahl Rd.

WATER SEWER REPORTS

The Highway Superintendent, Jon MacSwan, reported as follows:

- Water leak on Saunders Settlement Rd. in a line that led up to the college and the water to the dorm had to be shut off.
- In contact with Niagara Mohawk regarding a tipping utility pole on the end of Comstock Rd.

ATTORNEY REPORTS

No reports.

BEAR RIDGE SOLAR PROJECT

Rikki Cason reported on the following:

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- Spring Office Hours will begin on March 21st and are as follows: Tuesday 10-1, Wednesday 2-6, and every 3rd Saturday 10-1.
- At last months meeting the question was asked of Cypress Creek if they had any projects near schools. They have two. One in Watertown, NY on the side of Jefferson Lewis BOCES and one in South Carolina across from an elementary school.

Supervisor Ellis, reported as follows:

- Niagara County is conducting a Household Hazardous Waste Collection on April 18th, from 9:00 am to 12 noon, at 1445 Swan Rd., Lewiston in the Municipal Garage.
- Modern Disposal is not extending their contract. Supervisor Ellis will meet with Newfane, Somerset and Pendleton next Tuesday to discuss how to move forward and constructing an RFP and putting the matter out to bid.
- Corona Virus impact- Supervisor Ellis spoke with Dan Stapleton from the Niagara County Health Department. At the present time there are no confirmed cases in Niagara County. There are nine people in 14-day quarantine because of recent overseas travel. There are no guidelines yet of public gatherings. The Governor has set a limit of 500. Best we can do at this point is good personal hygiene, no shaking hands, Clorox wipes around the Town Hall for doorknobs and handles, etc.
- Starpoint School has a musical going on this weekend. They expect over 1,000 people. The health department recommended they use the criteria of necessity versus the want to do.

David Godfrey, Legislator

- The County has taken some action regarding the Corona Virus. All county employees are restricted to the county on county business. If anyone is travelling outside the county to notify the Health Department. Those identified from a risk area will be in quarantine and the employees will be paid for that time.
- There will be a press release from the Sheriff's Department that there will be no visitors to the jail except attorneys in controlled environment.
- Looking for spaces to quarantine people.
- The DMV put out a press release that they will no longer share pens with the public.
- Be cautious of lent fish fry's, there will be many people in attendance to those events.

CONCERNS OF CITIZENS

Supervisor Ellis recognized two students in attendance from Starpoint to fulfill government requirements.

David Godfrey, Niagara County Legislator reported the following:

- At last night's legislative meeting, there was good input on both sides with regard to opting out of the Article 487 Property Tax Exemption for Renewable Energy projects. The resolution doesn't move forward until the next meeting. A resolution was passed asking the Governor to remove the change in the Article 10 from the budget. The next meeting will deal with the 487 issue.

The following concerns were brought to the Town Boards attention:

Representatives for Cypress Creek (who were present) do not live near the proposed solar project. One lives in the City of Lockport and the other in California. A gentleman stated that he will be within a mile of the project. He does not live here to watch solar panels. He lives here to watch the wheat, corn and oats and whatever else the farmer puts in.

There have been 3 billion birds (all species) that have died recently. The Treaty Act of 1918 is being compromised. Meahl Rd. is the migration path that goes to the Alabama Swamps and it is also a prime location for the solar panels. The people have to become acutely aware of this. We are the keepers of the world and if we don't take care of it, it won't be just the birds.

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Concerns about how this project will affect the hobby farmers who rely on feed from the 838 acres of farmland that are currently producing feed. Have there been studies to determine how their cost will increase by the reduction of local feed? Councilman Foe will check with Ag & Markets, but there have been no local or regional studies done to his knowledge.

Kevin Kohlstedt, Cypress Creek asked if the Town Board is planning to vote on the Real Property Tax Law re: Exemptions for Solar/Wind/Energy Systems.

Supervisor Ellis said probably so. Mr. Kohlstedt voiced some concerns to the Town Board.

Is the Town Board planning to have a public hearing on the matter? Supervisor indicated that a public hearing was held in April of 2017; and are there new citizens in Cambria since April 2017 and if so, shouldn't their opinions be heard on this matter? Supervisor reported that there was sufficient input at the public hearing to know what people felt about it.

Mr. Kohlstedt continued to report on an update to Article 23, the new proposed budget bill that is currently under consideration. Community Benefits are an important part of this bill. One element of that is electricity rate discounts for citizens in host municipalities of these projects. It is an important item for the Town to control cost. When a town hosts a wind or solar project it is likely there will be electricity rate discounts to follow. It may be an item that the Town should consider.

Supervisor Ellis indicated that the problem with the proposal from Cypress Creek in their last meeting with the Town regarding the reduction in electrical rates is that it was only focusing on the 150 homes identified by them as the closest to the panels. It would be a savings of \$90 to \$100 per month for ten years. That is fine and good but it pales in comparison to the possible loss in value of their real estate. The Town has identified 365 homes that the Town considers directly impacted.

Mr. Kohlstedt responded that as he interprets the proposed legislation would result in a Public Service Commission Proceeding and could result in the entire Town receiving electricity discount rate.

Supervisor Ellis stated that the Public Service Commission is totally out of it. The legislation creates a new body under the Economic Development.

Mr. Kohlstedt indicated that it would oversee the permitting of the whole thing. The electricity rate discount portion is something that would be handled by the Public Service Commission in coordination with National Grid. It is something to consider with this proposed legislation.

There is talk by the Governor regarding how we are going to convert fossil fuel furnaces into electric. Who will pay for this? Offsetting electric bills by \$100 a month will not take care of this problem.

It was stated that in the Town's Comprehensive Plan, there is an area of the Town of approximately 1500 acres that is labeled as "Potential Industrial Zone" That may be part of the reason companies look at that parcel because the Town has made that particular area "potential industrial" What in the area does the Town Board consider industrial development or what would be appropriate there? If this area isn't it, is the Town looking to remove that zoning from that area in the next Comprehensive Plan?

Supervisor Ellis indicated that the Industrial Zone runs on either side of the railroad tracks between Junction and Comstock Roads. He will check into the discrepancy with the map(s) regarding the labeling of the 1500 acres of land designated as "potential industrial zone" in the 2015 Comprehensive Plan.

SERVICE AWARD PROGRAM

Upon a motion duly made by Councilman Hurtgam and seconded by Councilman Musall it was resolved to approve the Firemen Service Award Program 2019 Census for Pekin Fire Company with 17 eligible members and Cambria Vol. Fire Company with 26 eligible members.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts

-Motion Carried-

NYS ASSEMBLY BILL A3340A

Upon a motion duly made by Councilman Foe and seconded by Councilman Roberts it was resolved to support the Amendment New York State Assembly Bill A3340-A in relation to decisions by the state board on electric generation, and to repeal certain provisions which now requires approval through public referendum prior to certification for establishing a major electric generating facility.

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
BENJAMIN D. MUSALL voting AYE
RANDY ROBERTS voting AYE

The Resolution was thereupon declared duly adopted.

SECTION 487 OF NYS REAL PROPERTY TAX LAW
RE: EXEMPTIONS FOR SOLAR/WIND/ENERGY SYSTEMS

Supervisor Ellis indicated that the Town Board held a Public Hearing on the proposed Local Law 1-2020 on April 13, 2017. The Board did not take action because of concerns expressed by private individuals concerning their residences and the installation of either roof mounted or ground mounted solar. Since then only two residents who have ground mounted solar have exercised the exemption with the Assessor. Those who have roof top solar are not being assessed by the Assessor.

The action by the Town Board to opt out would be to focus on commercial utility grade solar. At this time, it seems appropriate to go ahead with this. This does mean the Town cannot participate in the PILOT program that is being offered by Cypress Creek. As a practical matter, the PILOT that was offered was \$3,000.00 per megawatt which is \$300,000.00 per year. This would be divided among Starpoint Central School District (60-65%), Niagara County (20-25%) and leaving approximately 5% for Pendleton and 5% for Cambria. This is about \$15,000.00 per year for 20 years.

Town of Cambria Local Law 1-2020
A LOCAL LAW TO OPT OUT OF
THE NY STATE REAL PROPERTY TAX LAW SECTION 487 EXEMPTION

Pursuant to New York State Real Property Tax Law Section 487 (8)(a), the Town of Cambria, New York does hereby adopt Local Law No., 1-2020 which provides that no exemption from taxation shall be applicable with respect to any solar or wind energy system within its jurisdiction.

Upon a motion duly made by Councilman Foe and seconded by Councilman Roberts it was resolved to adopt Local Law No., 1-2020 A Local Law to Opt Out of The New York State Real Property Tax Law Section 487 Exemption. This Local Law shall take effect immediately upon filing with the Secretary of State.

Public Hearing on this matter was held on April 13, 2017- No action was taken at that time.

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

MATTHEW P. FOE voting AYE
JEFFREY S. HURTGAM voting AYE
BENJAMIN D. MUSALL voting AYE
RANDY ROBERTS voting AYE
WRIGHT H. ELLIS voting AYE

The Resolution was thereupon declared duly approved.

RESOLUTION DECLARING THE TOWN OF CAMBRIA LOCAL CONTROL TOWN FOR PURPOSES OF ARTICLE 23

WHEREAS, NYS is a Home Rule state, and

WHEREAS, per the NYS Constitution, Article IX, it is our statutory obligation to protect the health, safety and welfare of citizens of our community, and

WHEREAS, the Town of Cambria has a comprehensive plan and accompanying zoning laws, fully supported by its residents, which capture the community's local conditions and values regarding future economic growth and development, and

WHEREAS, on February 21, 2020, Governor Cuomo proposed a Budget Amendment, titled the "Accelerated Renewable Energy Growth and Community Benefit Act (hereafter "Article 23 Amendment")" which would accelerate industrial wind and solar energy development, and

WHEREAS, the Article 23 Amendment, if passed, would greatly limit the role of local zoning laws, avoid critical reviews of local environmental conditions requiring mitigation, allow the State to take certain lands through eminent domain and make them available to developers for construction of power plants, and limit a town's taxation and assessment powers, and

WHEREAS, the Article 23 Amendment would eliminate protected processes, public participation and speech by specifically limiting administrative hearings and expressions of disagreement or opposition to siting locations, and

WHEREAS, the Article 23 Amendment contains an "approval by default" provision that deems an application to have been granted should the newly created Office of Renewable Energy Siting fail to make a decision in one year, be it

RESOLVED, that the Town of Cambria requests that the Article 23 Amendment be withdrawn, and be it further

RESOLVED, should the Article 23 Amendment become law, that the Town of Cambria hereby declares itself a Local Control Town for purposes of Article 23, and be it further

RESOLVED, should the Article 23 Amendment become law, that the Town of Cambria will not provide any local resources or cooperation towards approval, administration, and/or enforcement of any permits issued pursuant to Article 23, and be it further

RESOLVED, that the Town of Cambria will continue to enforce all local laws applicable to any project sited within the Town.

Upon a motion duly made by Councilman Foe and seconded by Councilman Musall, it was resolved to approve the Resolution Declaring the Town of Cambria Local Control Town for Purposes of Article 23.

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

MATTHEW P. FOE voting AYE
JEFFREY S. HURTGAM voting AYE
RANDY ROBERTS voting AYE
BENJAMIN D. MUSALL voting AYE
WRIGHT H. ELLIS voting AYE

The Resolution was thereupon declared duly approved.

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EMERGENCY AUTHORITY-SUPERVISOR

Supervisor Ellis reported that there was an electrical house fire recently in the Town. The Building Inspector was unavailable, so he was called to assess the situation along with the Building Inspector from Pendleton. This raised questions about authority and if the Building Inspector isn't available for future emergencies. Interestingly enough, Supervisor Ellis received an email from the Association of Towns regarding the corona virus and implementing emergency procedures at the Town level.

WHEREAS the Supervisor of the Town of Cambria, because of his position as Supervisor, has frequently been called upon during the occurrence of an emergency event to either take action on behalf of the Town and/or Town departments or to authorize action to be undertaken by the Town and/or Town departments, and

WHEREAS neither the Town Law nor any other state Law appears to clearly grant the Supervisor of the Town of Cambria the authority and power to undertake such emergency actions, and

WHEREAS the Town Board of the Town Board of the Town of Cambria deems it necessary and appropriate to formally grant the authority and power to the Supervisor to act on behalf of the Town Board in such circumstances, and

WHEREAS Town Law § 29 (16) expressly authorizes the Town Board, by Resolution to provide the Supervisor with authority, powers and duties to be performed on behalf of the Town Board, and

WHEREAS the New York State Property Maintenance Code at Section 109 Emergency Measures authorizes the town code official (Town of Cambria Building Inspector) to undertake certain actions as emergency measures principally involving buildings and structures,

NOW, THEREFORE, BE IT RESOLVED that the Supervisor of the Town of Cambria is hereby authorized and empowered to act on behalf of the Town Board in emergency situations, to take such actions or authorize such action to be undertaken by the Town and/or Town departments, to address the emergency, to utilize Town resources, to expend Town funds, to obtain outside assistance from other governmental units or private resources, whatever the case maybe, that, in his judgment, is reasonable, right, necessary, and appropriate to address the emergency and to protect lives and property and to ensure safety to the public, and

BE IT FURTHER RESOLVED that the authority granted to the Supervisor above is not intended to diminish, usurp or otherwise impair the authority granted to the Town of Cambria Building Inspector as the code official by the NYS Property Maintenance Code.

Upon a motion duly made by Councilman Hurtgam and seconded by Councilman Roberts, it was resolved to approve the Resolution granting the Town of Cambria Supervisor the authority to act on behalf of the Town Board in emergency situations.

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

MATTHEW P. FOE voting AYE
JEFFREY S. HURTGAM voting AYE
RANDY ROBERTS voting AYE
BENJAMIN D. MUSALL voting AYE
WRIGHT H. ELLIS voting AYE

The Resolution was thereupon declared duly approved.

PERSONNEL

Upon a motion duly made by Councilman Roberts and seconded by Councilman Hurtgam it was resolved to appoint Zelda Hillman as the Recreation Director with primary responsibility for the Recreation Day Program and such other responsibilities as may be mutually agreeable at a salary of \$16.00 per hour.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts -Motion Carried

Upon a motion duly made by Councilman Hurtgam and seconded by Councilman Musall it was resolved to appoint Steven Wurstner as the 2020 Season Baseball Director with a salary of \$4,000.00 per year.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts -Motion Carried

FEE SCHEDULE

Fee schedule changes:

Summer Recreation- The program will be seven weeks this year. Residents will be increased to \$80.00 per child and Non-Residents will increase to \$150.00 per child.

Mileage will be 57.5 cents per mile.

Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam it was resolved to approve the Fee Schedule changes. Summer Recreation will be seven weeks Residents increased to \$80.00 per child; Non-Residents will increase to \$150.00 per child. Mileage will change to 57.5 cents per mile.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts -Motion Carried-

PROCUREMENT POLICY PURCHASES

2020-07

HIGHWAY

The Highway Superintendent is in receipt of three proposals for paving rental and options for 2020. Proposals are on file in the Town Clerk's office.

Mark Cerrone, Inc.-cost varies based on need

Ken Young Paving, Inc.- cost varies based on need

Villager Construction, Inc.- cost varies based on need

The low proposal was from Ken Young Paving in the amount of \$2,783.00 per day; \$200.00 less than the other proposals.

Upon a motion duly made by Councilman Foe and seconded by Councilman Roberts, it was resolved to contract with Ken Young Paving from Youngstown, to provide paving services in Cambria for 2020 season, in the amount of \$2,783.00 per day.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts -Motion Carried-

2020-08

HIGHWAY

The Highway Superintendent is in receipt of three proposals for a roller. This is a state bid purchase but also received additional proposals.

Anderson Equipment Company- \$34,182.00

Monroe Tractor-\$38,958.00- \$20.00 a month over 20 years extra; \$13.00 a month over 30 years extra.

Milton CAT-\$41,325.00

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Upon a motion duly made by Councilman Musall and seconded by Councilman Foe, it was resolved to accept the proposal on state bid from Monroe Tractor for a 2020 model HAMM HD12 Roller in the amount of \$38,958.00.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts

-Motion Carried-

**2020-05
WATER**

Pow-R Mole Push Box- Pow-R Mole Sales, LLC is the sole provider for this product. This purchase amount is \$10,495.00.

Upon a motion duly made by Councilman Roberts and seconded by Councilman Hurtgam, it was resolved to approve the sole provider purchase from Pow-R Mole for a Push Box (rod turner) in the amount of \$10,495.00.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts

-Motion Carried-

**2020-06
WATER**

NYS Contract #PC67141 Award #PGB22792, Group #40625 for a Flail Mower 40ø for mowing right of ways for water and sewer in the amount of \$7,342.25.

Upon a motion duly made by Councilman Foe and seconded by Councilman Musall, it was resolved to approve the purchase of a 40' Flail Mower- NYS Contract in the amount of \$7,342.25.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts

-Motion Carried-

Superintendent MacSwan reported that he and Councilman Foe created a form to be filled out by anyone hauling surplus millings from the Town. It states that the millings will not be resold. The form will be available with the Highway secretary.

ADJOURNMENT

The meeting was adjourned by motion made by Councilman Foe and seconded by Councilman Roberts.
Time: 8:04 pm

Respectfully submitted,

Tamara J. Cooper, Town Clerk