

approved

TOWN OF CAMBRIA TOWN BOARD

October 13, 2022

The regular meeting of the Town of Cambria Town Board was held at 7:00 pm on the 13th day of October 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
Robert Roberson, Attorney
Tim Walck, Wendel
Jon MacSwan, Highway Superintendent
17 Interested individuals

Following salute to the flag, Supervisor Ellis opened the public hearing on Comstock Road and Meahl Road Sewer Line Extensions.

The following public hearing notice was read by the Town Clerk:

TOWN OF CAMBRIA SEWER DISTRICT

Notice of Public Hearing Comstock Road and Meahl Road Sewer-Line Extensions

PLEASE TAKE NOTICE that the Town Board of the Town of Cambria, Niagara County, New York, will meet at the Town Hall, 4160 Upper Mountain Road, Sanborn, New York, on the 13th day of October, 2022 at 7:00 p.m. for the purpose of conducting a Public Hearing on a certain map and plan and estimate of cost relating to the proposed installation of approximately 180 linear feet of 8 inch PVC sewer line along Comstock Road and approximately 230 linear feet of 8 inch PVC sewer line along Meahl Road (as shown on map and plan prepared by Wendel-Duchscherer, Architect and Engineers) in and for the Town of Cambria Sewer District of said Town at an estimated maximum cost of \$20,000.00 and environmental consideration in connection therewith under SEQRA, at which time and place said Town Board will hear all persons interested in the subject matter thereof concerning the same. A copy of said map and plan and estimate of cost is on file in the office of the Town Clerk where the same may be examined by interested persons during regular business hours.

Supervisor Ellis reported on the Comstock and Meahl Roads Sewer Line Extension. The reason for the article 202b is a matter of financing and using public money. Normally we do this when the Town borrows funds for \$1000,000, even \$200,000 projects. This particular project is \$20,000 and will be paid out of the sewer fund. The Town has to do this because the sewer line is being extended by a couple hundred feet, not a direct hook up.

Tim Walck, Wendel, indicated that this should be an easy project and the Town is using their own force to complete it.

7:05 pm Supervisor Ellis opened the Public Hearing for public comment.

7:05 pm Supervisor Ellis closed the Public Hearing as there was no one present to be heard.

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

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts

-Motion Carried-

CDBG FUNDING APPLICATION

Supervisor Ellis reported on the agreement for the CDBG Funding. As part of the agreement the Town must obtain the services of a consultant to assist with the grant administration. The Supervisor has a request for proposals for consulting services which were shared with the Town Board.

Upon a motion duly made by Councilman Roberts and seconded by Councilman Musall it was resolved to authorize the Supervisor to advertise a request for proposals to hire a consultant to provide technical assistance as necessary for the administration of the Office of Community Renewal Grant which is in the amount of \$750,000.00 which will be applied to the Trek Project on Junction Rd.

The question of the adoption of the forgoing Resolution was put to a roll call vote, 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 M. ROBERTS voting AYE

The Resolution was thereupon declared duly adopted.

REZONING APPLICATION – NIAGARA COUNTY PROPERTY

Drew Reilly, Wendel, gave a brief description of the proposed Junction Road Niagara County Business Park project. He is asking the Town Board to accept the Draft Generic Environmental Impact Statement as complete for the public and agency review and to set a public hearing on the DGEIS and Rezoning of the property.

Supervisor Ellis is in receipt of a letter from William Amacher, Planning Board Chairman, recommending the Town Board accept the DGEIS as complete for public and agency review.

Upon a motion duly made by Councilman Musall and seconded by Councilman Foe it was resolved to approve the resolution for acceptance of the Draft Generic Environmental Impact Statement and to set a public hearing on the DGEIS and Rezoning proposal dated October 13, 2022-for November 10, 2022 at 7:00 pm.

The question of the adoption of the forgoing Resolution was put to a roll call vote, 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 M. ROBERTS voting AYE

The Resolution was thereupon declared duly adopted.

TOWN PARK SECURITY CAMERA SYSTEM

Councilman Foe reported he had another vendor come out to the Town Park and had a couple additional ideas regarding installation. The challenge is the distance from the Town Park to the Town Hall servers and there is no fiber optics that runs in that direction.

COMSTOCK RAILROAD/MEAHL RD SANITARY SEWER EXTENSIONS

BOND RESOLUTION DATED OCTOBER 13, 2022

A RESOLUTION AUTHORIZING THE INSTALLATION OF APPROXIMATELY 180 LINEAR FEET OF 8 INCH PVC SEWER LINE ALONG COMSTOCK ROAD AND APPROXIMATELY 230 LINEAR FEET OF 8 INCH PVC SEWER LINE ALONG MEAHL ROAD (AS SHOWN ON MAP AND PLAN PREPARED BY WENDEL, ARCHITECT AND ENGINEERS) IN AND FOR THE TOWN OF CAMBRIA SEWER DISTRICT OF SAID TOWN AT AN ESTIMATED MAXIMUM COST OF \$20,000.00 AND THE FINANCING OF SAME THROUGH THE ISSUANCE OF BONDS

WHEREAS, pursuant to proceedings hereto had and taken in accordance with the provisions of Section 202-b of the Town Law, the Town Board of the Town of Cambria, Niagara County, New York, has determined it to be in the public interest to increase and improve facilities of the Cambria Sewer District in the Town of Cambria, and

WHEREAS, it is now desired to authorize the installation of approximately 180 linear feet of 8 inch PVC sewer line along Comstock Road and approximately 230 linear feet of 8 inch PVC sewer line along Meahl Road (as shown on map and plan prepared by Wendel (Architect and Engineers) in and for the Town of Cambria Sewer District of said Town at an estimated maximum cost of \$20,000.00 and the financing of same through the issuance of bonds.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Cambria, Niagara County, New York, as follows:

Section 1. The installation of approximately 180 linear feet of 8 inch PVC sewer line along Comstock Road and approximately 230 linear feet of 8 inch PVC sewer line along Meahl Road (as shown on map and plan prepared by Wendel (Architect and Engineers) in and for the Town of Cambria Sewer District of said Town at an estimated maximum cost of \$20,000.00 for the Town of Cambria and environmental consideration in connection therewith under SEQRA, in and for the Town of Cambria, together with the necessary accoutrements.

Section 2. The maximum estimated cost of such specific object or purpose is \$20,000.00 and the plan for the financing thereof is \$20,000.00 by the issuance of the serial bonds of the Town of Cambria hereby authorized to be issued pursuant to the provisions of the Local Finance Law. Further details pertaining to the said bonds will be prescribed in a further resolution or resolutions of this Town Board.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is thirty years, pursuant to subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will not exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of Town of Cambria, Niagara County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on such obligations as the same respectively become due and payable. There shall be annually apportioned and assessed upon the several lots and parcels of land within the Town of Cambria Sewer District No. 1 which the Town shall determine and specify to be especially benefitted by the improvement, an amount sufficient to pay the principal and interest on said bonds as the same

become due, but if not paid from such source, all the taxable real property in the Town of Cambria shall be subject to the levy of ad valorem taxes without limitation as to rate or amount sufficient to pay the principal of and interest on said bonds as the same shall become due.

Section 6. The validity of such bonds and bond anticipation notes may be contested only if:

1. Such obligations are authorized for an object or purpose for which the Town of Cambria is not authorized to expend money, or
2. The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
3. Such obligations are not authorized in violation of the provisions of the Constitution.

Section 7. Upon this resolution taking effect, the same shall be published in full in the Union Sun & Journal, the official newspaper, together with a notice of the Town Clerk, in substantially the form provided in Section 81.00 of the Local Finance Law.

Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam it was resolved to approve the resolution for the installation of approximately 180 linear feet of 8 inch pvc sewer line along Comstock Road and approximately 230 linear feet of 8 inch pvc sewer line along Meahl Road (as shown on map and plan prepared by Wendel, Architect and Engineers) in and for the Town of Cambria Sewer District of said Town at an estimated maximum cost of \$20,000.00 and the financing of same through the issuance of bonds.

The question of the adoption of the forgoing Resolution was put to a roll call vote, 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 M. ROBERTS voting AYE

The Resolution was thereupon declared duly adopted.

TOWN CLERK REPORTS

The Town Clerk reported receipt of the following:

- Town Clerk Report September: Total Receipts: \$ 28,582.64
- Building Inspector Report September: Total fees collected: \$ 11,249.00
- Estimated value of construction: \$ 457,111.00
- In receipt of three correspondences for the Town Board dated: 9/20;10/5;10/13. Copies were made and distributed to the Board.
- In receipt of a request from Cambria Volunteer Fire Company to add: Caleb Hoffman 3157 Lower Mountain Road to their active roster. Physical paperwork has not been received.

Upon a motion duly made by Councilman Roberts and seconded by Councilman Musall it was resolved to approve Caleb Hoffman 3157 Lower Mountain Road to Cambria Vol. Fire Company's active roster; pending receipt of physical paperwork.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts

-Motion Carried-

HIGHWAY SUPERINTENDENT REPORTS

Jon MacSwan, Highway Superintendent, reported as follows:

- Tire drop off will be October 29th from 8:00 am to 12:00 pm truck/passenger tires only-no large ag tires will be accepted. There will also be an electronic drop off at the same time, and woodchip pick up.
- Paving is complete.
- Brush pick up will continue until it snows.
- Working on ditching jobs.

WATER SEWER REPORTS

Jon MacSwan, Highway Superintendent, reported as follows

- Mowing easements.

ATTORNEY REPORTS - no report

Supervisor Ellis reported as follows:

BEAR RIDGE SOLAR PROJECT

Supervisor Ellis reported that there is nothing new to report on the Bear Ridge Solar project. The draft permit was issued on October 3. The Town is in the process of developing responses to the issues that were raised; issue statements. These will be provided no later than December 23rd.

Sharon Tasner announced that the COIS group is hosting a spaghetti dinner on October 22, 2022 at the Cambria Fire Company from 4:00 pm to 6:30 pm. Tickets are \$12.00 presale and \$15.00 at the door.

Ms. Tasner asked why there was no update on the proposed solar project in the fall newsletter. Supervisor Ellis indicated there were other Town issues that needed to be addressed in his article. A separate letter will be going out to residents in November.

2023 BUDGET

The tentative budget has been presented to the Town Board and they are working with department heads during October and working on preparing the preliminary budget to present at the public hearing on November 10th for final approval.

The Town is dealing with some significant increases and has been able to keep the budget within the limits of the tax cap. It is using a little more reserve than normal to balance things out. This is so as not to cut any services or raise taxes.

CONCERNS OF CITIZENS

John Soto-Baer Rd.

Mr. Soto thanked the Town for working so quickly on addressing the traffic concerns under the bridge on Baer Road. He also asked the following of the Town Board:

- Has there been any movement on the command center?

Supervisor Ellis indicated they are waiting on the appraisal.

- Is the Town going to sue Bear Ridge Solar?

Supervisor Ellis indicated that the Town Board cannot comment on that because of the possibility of litigation. The Town Board is doing all they can within the parameters of 94C. It has to establish itself as a party to the proceedings to be able to proceed legally; this will be determined sometime after December 23rd.

Councilman Roberts indicated that the Town Board is all in, as discussed in the past, and they are doing all they can but must follow legal advice from the attorney.

- Is the Town interested in rejoining the COIS lawsuit if accepted in the appellate court?

Supervisor Ellis said not at this time for the reasons already stated.

- Stormwater run-off- Mr. Soto indicated their attorney believes this is a valid concern. They feel it is not being properly addressed by the project. He would like to know if the Town and Wendel would like to go in with COIS and conduct an investigative study with regard to run off. In the current project plans Cypress Creek has no stormwater measures, and all the water will be dumped into area ditches and Bull Creek. 1” of rainfall across that project will result in over 20 million gallons of water.

Supervisor Ellis indicated Wendel has already addressed many issues on drainage and runoff.

Drew Reilly, Wendel- they are looking at other studies from other towns against stormwater to see if anything has been missed so it can help Cambria. What is different in Cambria?

Sharon Tasner-Subbera Rd.

Ms. Tasner mentioned that the proximity of the houses (within a mile) in Cambria may be a factor and asked if Mr. Reilly knew how they can find out how it compares to other projects in NYS.

Supervisor Ellis suggested that the citizens group may have more say because they can talk from personal experience of the homes in the area of the project. All the work they had done prior was not included in the application. None of their photos were used.

Roger Palmer- Subbera Rd.

Mr. Palmer asked why their photos were not used and who they can ask why.

Supervisor Ellis does not know.

Brief discussion ensued.

Bob Timkey-Gold Solar of WNY

Mr. Timkey is present to represent Matt Jones. They have a contract to install a rooftop array and he would like to know how he can apply for a variance while the moratorium (ground mount) is in place.

Mr. Roberson, Attorney told him to contact the Zoning Attorney, Gary Billingsley.

Supervisor Ellis asked that he leave his contact information.

Tyler Booth-Lower Mountain Rd.

Mr. Booth indicated that he was contacted by a town resident who was angry with him for making a complaint against their business. Mr. Booth is concerned and feels that James McCann, Building Inspector, is making up complaints about him. He foil requested all complaints in the town and the complainants' names were redacted. He called Mr. McCann and was told that he wasn't allowed to know who complained. Mr. Booth sent a letter to the Town Board regarding the issues and hopes they read it through and address the problems mentioned.

Town Clerk Cooper indicated that before she released the information for the FOIL request to Mr. Booth, she was required by NYS to redact the names of those who complained.

Robert Krous- Upper Mt. Rd.

Mr. Krous asked the board if permits have been issued for the Bear Ridge Solar Project.

Supervisor Ellis indicated no, what they have been talking about is a draft permit. Mr. Krous recently had a conversation with an inspector in Buffalo. He has found the solution for dealing with solar applicants is to charge a high rate and charges for every solar panel and has had about 90% of them walk away because of the cost.

Supervisor Ellis indicated that the Town is prevented from issuing building permits under the NYS 94C application, so this is not an option.

David Godfrey, Legislator

Reported on the following:

- **Solar Update**

A few weeks ago Dawn Timm, the Environmental Coordinator and Jonathan Schultz met with town officials to make sure that the green energy is being properly handled. Another meeting took place at the Air Base this morning with the fire chief and environmental coordinator much like the other meeting. From a fire perspective, it is not so much the panels, but the battery storage units that will request tens of thousands of gallons of water to put out in case of a fire. It will take two hours minimum to cool it down, where does the runoff go?

- Mr. Godfrey said the County is doing what they can to address these issues.

Budget- met with the READY Commission who had dredged all the harbors. This is important to Cambria because even though it is not on a lake, its budget depends on the sales tax dollars brought in by Olcott and Wilson. They bring in about twelve to fifteen million dollars of sales tax revenue through recreational boating and the fishing industry. All the towns in the county get a share of that.

A brief discussion followed regarding response to a fire within the panels, runoff from the 900 acres from the proposed project will run into Bull Creek, ditches and the wells. In addition, it was mentioned how all 2,000 comments were deleted from the public DPS site.

NEW BUSINESS

UNPAID WATER, SEWER, REFUSE CHARGES FOR TAX LEVY

The Town Board was provided a listing of the unpaid Water/Sewer/Refuse/Town charges to be placed as a lien upon the real property for which services were provided. A copy of the listing is on file in the office of the Town Clerk.

Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam, it was resolved to place a lien on the Real Property for which services were provided in the amounts of: Unpaid Water: \$17,193.60; Unpaid Sewer: \$2,492.91; Unpaid Refuse: \$1,004.74; Water Late Fee: \$13,400.00 Town Charges: \$1,837.50 for a grand total of \$35,928.75.

The question of the resolution was 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.

PROFLEX MEDICAL EXPENSES CONTRACT

Supervisor Ellis indicated that Proflex has been used for about a year and a half for medical expense reimbursement.

BE IT RESOLVED that the Town Board of the Town of Cambria hereby determines to terminate its existing contract with Pro-flex Administrator LLC (Medical Expenses Reimbursement Plan Services Agreement) at midnight December 31, 2022 and authorizes the Supervisor to send a copy of this Resolution to Pro-flex together with a Notice of Intent to terminate the Agreement as aforesaid. The Notice to Terminate shall be sent to Pro-flex no later than October 20, 2022 to provide Pro-flex with the sixty (60) days' notice as required by Agreement paragraph 5 - Termination.

Upon a motion duly made by Councilman Musall and seconded by Councilman Roberts it was resolved to approve the resolution terminating the contract with Pro-flex as stated above.

The question of the adoption of the forgoing Resolution was put to a roll call vote, 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 M. ROBERTS voting AYE

The Resolution was thereupon declared duly adopted.

PROCUREMENT POLICY PURCHASE

2022-15 General

Roof for community Room Building

Rickard General Construction: \$31,841.00 (*quote was for a metal roof-which would need additional support*).

Blue Ox Roofing: \$40,000.00

Niagara Construction: \$34,500.00

Design Builders: \$38,780.00

Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam it was resolved to approve the proposal from Niagara Construction in the amount of \$34,500.00 for a new rubber roof for the Community Room Building.

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts

-Motion Carried-

ADJOURNMENT

As there was no further business, the meeting was adjourned by motion made by Councilman Roberts and seconded by Councilman Musall. Time: 8:10 pm

Ayes: Ellis, Foe, Hurtgam, Musall, Roberts

-Motion Carried-

Respectfully submitted,

Tamara J. Cooper, Town Clerk