

**Approved**

**TOWN OF CAMBRIA TOWN BOARD**

**October 14, 2021**

The regular meeting of the Town of Cambria Town Board was held at 7:00 pm on the 14<sup>th</sup> day of October 2021 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  
8 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 Foe and seconded by Councilman Hurtgam, it was resolved to approve the minutes of the Town Board meetings of September 9, work and regular, September 16, 2021 meeting, October 4, 2021.**

**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:

**October 14, 2021**

<b>FUND</b>	<b>CLAIM</b>	<b>AMOUNT</b>
Cemetery	13	\$38.90
General	410-463	\$70,140.30
Highway	146-169	\$25,928.82
Refuse	12	\$34,417.76
Sewer Operating	26	\$78.19
Trust & Agency	13-14	\$65,399.54
Water Operating	126-141	\$71,635.40

**Upon a motion duly made by Councilman Roberts and seconded by Councilman Foe it was resolved that the abstract of audited vouchers dated October 14, 2021 be approved as read by the Town Clerk.**

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

**-Motion Carried-**

**RIDGE ROAD (ROUTE 104) CULVERT ISSUES**

Tim Walck, Wendel, gave an update to the Town Board regarding the work on Ridge Rd. Wendel is in receipt of a soil boring report. They finished design plans and submitted them to the DOT last week. He talked to two people at DOT who will review and approve the plan. Neither had comments and it is in the approval process. Mr. Walck feels it is safe for the Town to proceed with asking contractors for quotes.

Mr. Roberson, Attorney, indicated that the Town Board has been given an Order Calling Public Hearing for the Town of Cambria Drainage District. This is for authorization for the replacement in kind maintenance of existing culvert and collapsed storm-sewer being approximately 350 LF of emergency sewer line replacement of the collapsed storm-sewer; including 120 LF bore within NYS DOT Right of Way Route 104. This includes estimated maximum cost of \$275,000.00 and the environmental considerations in connection under SEQRA and authorizing if necessary the financing of same through the issuance of bonds.

The Public Hearing will be scheduled for Thursday, October 28, 2021, at 7:00 pm.

**ORDER CALLING PUBLIC HEARING  
TOWN OF CAMBRIA DRAINAGE DISTRICT**

Replacement in kind maintenance of existing  
culvert and collapsed storm-sewer being  
approximately 350 LF of emergency sewer line  
replacement of the collapsed storm-sewer;  
includes 120 LF bore within NYS DOT ROW Route 104

The following Resolution was offered by Councilman Roberts who moved its adoption, and seconded by Councilman Foe to wit:

**WHEREAS**, the Town Board of the Town of Cambria, Niagara County, New York, has had under consideration the installation and improvement of additional facilities for the Town of Cambria Drainage District of said Town; and

**WHEREAS**, said Town Board has duly caused a map, plan and report and estimate of cost for additional facilities to be prepared and submitted by Wendel, Architects and Engineers, duly licensed by the State of New York; and

**WHEREAS**, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, the "SEQR Act"), the Town Board constitutes a "State Agency"; and

**WHEREAS**, the action under consideration by the Town Board (the "Action") consists of the replacement in kind maintenance of existing culvert and collapsed storm-sewer being approximately 350 LF of emergency sewer line replacement of the collapsed storm-sewer; includes 120 LF bore within NYS DOT ROW Route 104, as shown on the Map, Plan, and Report proposed by Wendel (Engineers and Architects) for the Town of Cambria Drainage District of said Town at an estimated maximum cost of \$275,000.00 and environmental considerations in connection therewith under SEQRA, (as shown on Map, Plan and Report prepared by Wendel, (Architect and Engineers) in and for the Town of Cambria Drainage District of said Town at an estimated maximum cost of \$275,000.00 and the financing of same through the issuance of bonds; and

**WHEREAS**, to aid the Town Board in determining whether the Action may have a significant effect upon the environment, the Town has prepared and submitted a Short Environmental Assessment Form (the "Questionnaire") with respect to the Facility, a copy of which is attached hereto as Exhibit A; and

**WHEREAS**, the Questionnaire has been reviewed by the Town Board; and

**WHEREAS**, it is now desired to call a Public Hearing on said Map, Plan and Report and estimate of cost pursuant to Section 202-b of the Town Law;

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

**Section 1.** A Special Meeting of the Town Board of the Town of Cambria, Niagara County, New York, shall be held at the Town Hall, 4160 Upper Mountain Rd, Cambria, New York, on the 28<sup>th</sup> day of October, 2021 at 7:00 p.m. for the purpose of conducting a Public Hearing on the Map, Plan and Report and estimate of cost referred to in the preambles hereof, at which time and place said Town Board will hear all persons interested in the subject thereof concerning the same.

**Section 2.** The Town Clerk is hereby authorized and directed to cause a Notice of Public Hearing to be published in the Union Sun & Journal and posted in the manner provided by law, which notice shall be in substantially the following form, to wit:

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

The resolution was thereupon declared duly adopted.

#### **PUBLIC HEARING ON 202-B**

**Upon a motion duly made by Councilman Foe and seconded by Councilman Musall it was resolved to conduct a Town Board Meeting on Thursday, October 28, 2021, at 7:00 pm for purposes of conducting a Public Hearing on the 202-B Resolution.**

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

**-Motion Carried-**

#### **Town of Cambria Town Board RESOLUTION DECLARING PUBLIC EMERGENCY**

**BE IT RESOLVED** that pursuant to Section 4 of General Municipal Law Section 103, the Town Board of the Town of Cambria hereby declares that the need to immediately repair, replace and reconstruct the culvert situate under NYS Rte. 104 (Ridge Road) in the Town of Cambria, Niagara County, New York in the vicinity of the Hurtgam-Faery premises to be a public emergency arising out of the 500-1000 year rainstorm occurring on Tuesday, July 20, 2021 that washed out, due volume of water and the force of the same, the culvert running underneath NYS Rte. 104. The wash-out of the culvert resulted in the inability to drain storm water from the premises south of Rte. 104, causing extensive flooding and property damage, as the condition of blocked drainage due to the culvert washout of the affected premises, and with winter weather quickly approaching, as immediate remedial action is necessary and cannot wait competitive bidding or competitive offerings, necessary contracts for the public work and purchases of supplies and materials for the needed repairs are hereby authorized by the Town Board of the Town of Cambria and,

It is **FURTHER RESOLVED** that the Town Engineer is authorized to put a "hold" on materials and supplies necessary for repairs.

**Upon a motion duly made by Councilman Roberts and seconded by Councilman Musall it was resolved to approve the resolution to declare Public Emergency arising out of the 500-1000 year rainstorm occurring on July 20, 2021 that washed out, due volume of water and the force of the same, the culvert running underneath NYS Rte. 104. The wash-out of the culvert resulted in the inability to drain storm water from the premises south at Rte. 104.**

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

The resolution was thereupon declared duly adopted.

#### **PEKIN FIRE COMPANY 2021 ROSTER**

Supervisor Ellis reported the Town Board has not received the updated roster from the company.

#### **PELLICANO AMENDED SITE PLAN**

Supervisor Ellis reported that he is in receipt of a letter from the Planning Board recommending that the Town Board grant the amended site plan approval in regard to the request from Mr. Pellicano, 4658 Ridge Rd., to modify the current site plan. This will include converting the existing restaurant area into a three bedroom apartment containing approximately 1,500 square feet and will have no more than two additional vehicles on the premises.

The property is zoned Planned Development so the request came to the Town Board for a final determination. The request went to the Planning Board to conduct the site plan review.

**Upon a motion duly made by Councilman Musall and seconded by Councilman Foe it was resolved to accept the recommendation of the Planning Board, in the letter dated October 8, 2021, to approve the amended site plan approval in regard to the request from Mr. Pellicano, 4658 Ridge Rd., to modify the current site plan. This will include converting the existing restaurant area into a three bedroom apartment containing approximately 1,500 square feet and will have no more than two additional vehicles on the premises.**

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

**-Motion Carried-**

#### **CLERICAL APPOINTMENTS**

Supervisor Ellis indicated there is some new clerical staff at the Town Hall.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam it was resolved approve the appointment of Amanda L. Alexander, 30 Cave St. Lockport, Account Clerk in the Supervisor's Office; start date: June 14, 2021- probationary rate of \$18.50 per hour; Krista M. Brocius, 4698 Beach Ridge Rd., Lockport, to the Building Inspector's Clerk; start date July 12, 2021-probationary rate of \$13.50 per hour and Marcie M. Johnson, 5195 Cambria Rd., Sanborn, Confidential Secretary to the Supervisor; start date July 26, 2021-probationary rate of \$18.50 per hour.**

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

**-Motion Carried-**

#### **TOWN CLERK REPORTS**

The Town Clerk reported receipt of the following:

- Town Clerk Report September: Total Receipts: \$23,838.82
- Building Inspector Report September: Total fees collected: \$ 3,527.65  
Estimated value of construction: \$ 67,000.00
- In receipt of a letter from Pekin Fire Company requesting to add members to their active roster: Lauren Rick, 100 Scovell St. Lockport- The physical paperwork has not been received.

**No action will be taken until the physical paperwork is received.**

- Fall Newsletters will go out next week.

Supervisor Ellis has a letter from Thomas Gregson resigning from the Board of Assessment Review Board effective immediately.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Musall it was resolved to accept the resignation from Thomas Gregson, with appreciation for several years of service to the Town from the Board of Assessment Review Board.**

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

**-Motion Carried-**

The Town Assessor has an interested party to fill the position left open by Mr. Gregson.

**Upon a motion duly made by Councilman Roberts and seconded by Councilman Hurtgam it was resolved to appoint Rae Ann Amacher- 2967 Raymond Rd. to a five-year term on the Board of Assessment Review, running until September 30, 2026.**

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

**-Motion Carried-**

## **HIGHWAY SUPERINTENDENT REPORTS**

Councilman Foe reported on behalf of the Highway Superintendent, Jon MacSwan, as follows:

- Tire drop off will be on October 30<sup>th</sup> from 8 am to noon. 4 tire limit for oversized tires, no rims. Everyone participating will be required to show ID. Electronic recycling will also be available at that time.
- November 1<sup>st</sup> will be the last week of brush pick up.

## **WATER SEWER REPORTS**

No reports.

## **ATTORNEY REPORTS**

No reports.

## **BEAR RIDGE SOLAR PROJECT**

Supervisor Ellis indicated that the litigation that the Town entered into along with other towns and entities has been dismissed by the judge in Albany. This was expected since that takes place in the Albany courts. The decision will be appealed. He has also received a message from Cypress Creek that they have been reaching out to the local Fire Companies in order to set up a Zoom type meeting in order to talk about fire safety and procedures regarding installation. An in person meeting is being requested by those involved and they are awaiting a response. Cypress Creek is trying to get their application submitted and had to delay it another week.

## **CONCERNS OF CITIZENS**

- Sharon Tazner, Subbera Rd. asked if an informational letter will be sent out regarding the proposed solar project. Supervisor Ellis indicated there will be. Ms. Tazner mentioned the 2<sup>nd</sup> Annual Halloween Trunk or Treat Event to be held on Saturday, October 30 at the Town Park from 2 pm to 5 pm. She thinks it is a great thing for the community.
- A Town Resident commented on how nice the new Town Park sign looks and asked if the Park be open in the winter. Supervisor Ellis said yes, and there will be more activity with the ice rink and the walking path will be cleared of snow. The snow at the park takes second place to clearing the roads and fire stations. However, the comfort station will not be open because there is no heat.

**MODERN DISPOSAL / TRASH/RECYCLING AND BULK PICK UP**

Supervisor Ellis reported that the Town is having significant problems with Modern on the trash/recycling/bulk pick up. The Town went with trash carts at the insistence of Modern and Waste Management in order to save on labor by going to one person in the truck. The Town has been having trouble for some time with getting notifications late Wednesday afternoon that the bulk pickup will be delayed until Saturday. It goes up on the Town's website but not everyone reads the website. A call was placed to Dawn Timm, the County Coordinator, and there will be a meeting with representatives from four towns and the County Coordinator and the people from Modern. This will be October 28, in the Community Room. Modern is not following through on their end of the contract.

**NEW BUSINESS**

**PLANNING BOARD AND ZONING BOARD OF APPEALS VACANCIES**

Supervisor Ellis indicated that there are a couple vacancies on the Planning Board and the Zoning Board of Appeals.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Musall it was resolved to authorize the Town Clerk to advertise for positions on the Planning Board and the Zoning Board of Appeals.**

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

**-Motion Carried-**

**ZONING BOARD CHANGE**

**Upon a motion duly made by Councilman Hurtgam and seconded by Councilman Roberts it was resolved to appoint Cheryl Shoop to regular member of the Zoning Board of Appeals with a term to expire December 31, 2022 and to appoint Bradley Rowles to an Alternate position on the Board.**

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

**-Motion Carried-**

**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 Hurtgam and seconded by Councilman Foe, it was resolved to place a lien on the Real Property for which services were provided in the amounts of: Unpaid Water: \$14,845.08; Unpaid Sewer: \$3,122.00; Unpaid Refuse: \$935.00; Water Late Fee: \$12,400.00 Town Charges: \$0 Wat for a grand total of \$31,302.08.**

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.

**SCHEDULING NOVEMBER TOWN BOARD MEETING**

Supervisor Ellis indicated that the November Town Board meeting would normally take place on November 11, 2021, however, the Public Hearing on the Town Budget must be held no later than November 5<sup>th</sup> of the month and vote no later than the 15<sup>th</sup>. The November meeting will be moved to Thursday, November 4, 2021, 7:00 pm.

**Upon a motion duly made by Councilman Roberts and seconded by Councilman Hurtgam it was resolved to change the Town Board meeting to Thursday, November 4, 2021 at 7:00 pm.**

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

**-Motion Carried-**

### **MARIJUANA RETAIL SALES**

Supervisor Ellis indicated that NYS passed a law authorizing marijuana use within the state. They tend to pass laws and try to draw up regulations to implement the law. The State provided a procedure whereby if a municipality doesn't do anything, then they can have retail sales and dispensaries within the municipality. If you opt out of that provision, you must do this by December 31, 2021 and you will not allow retail dispensaries and or on site consumption licenses within the town. Later, when the regulations come out, the town can decide whether or not it will opt back in, and where it will be allowed within the town. There are many things to consider with this. For instance the moral and law enforcement aspects. Until the regulations are developed, the Town does not know what it will be dealing with. At this time, the wiser course of action is to opt out and wait until the regulations come through and decide if it fits in with the zoning and if changes need to be made to the ordinance to accommodate the regulations.

**Upon a motion duly made by Councilman Hurtgam and seconded by Councilman Roberts, it was resolved to schedule a public hearing for November 4, 2021, 7:05 pm, on Local Law No. 2-2021 opting out of allowing cannabis retail dispensaries and on site consumption as otherwise authorized under Article 4 of the Cannabis Law of the State of NY.**

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.

### **UNION NEGOTIATIONS**

Supervisor Ellis reported union negotiations with our employees will begin shortly.

### **ADJOURNMENT**

As there was no further business, the meeting was adjourned by motion made by Councilman Foe and seconded by Councilman Roberts. Time: 7:45 pm

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

**-Motion Carried-**

Respectfully submitted,

Tamara J. Cooper, Town Clerk