

**TOWN OF CAMBRIA TOWN BOARD**  
**August 13, 2020**

The regular meeting of the Town of Cambria Town Board was held pursuant to Governor Cuomo's Executive Order 202.1, temporarily modifying the Open Meetings Law due to the COVID-19 pandemic and in the interest of public safety. Town Board members met via teleconference at 7:00 pm on the 13<sup>th</sup> day of August 2020.

Supervisor Ellis indicated that the Town Board has been looking into how they might be able to allow the public back into the meeting room for a board meeting. Unfortunately, the seating is limited by the COVID 19 requirements to maintain six feet of separation and denying entrance to those making an effort to attend is not a viable option. For the foreseeable future the Town Board will have meetings in this format.

The following board members were present:

**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  
Mary Young, Lumsden & McCormick  
2 interested parties

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 regular Town Board meeting of July 9, 2020.**

The question of the approval of the July 9, 2020 Town Board minutes 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 motion was thereupon declared duly adopted.

**APPROVAL OF VOUCHERS**

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

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Cemetery	5 & 6	\$1,804.99
Drainage	10 & 11	\$410.98
General	297-350	\$66,622.03

Highway	94-116	\$127,811.98
Refuse	11-13	\$32,176.59
Sewer Operating	26-28	\$1,898.73
Trust & Agency	11	\$224.00
Water Construction	11-13	\$258,217.68
Water Operating	120-136	\$20,563.74

Supervisor Ellis asked for a motion for approval of the audited vouchers as read by the Town Clerk, with the exception of Water Construction, Claim #12 from 4<sup>th</sup> Generation Construction –Payment #2 in the amount of \$234,184.98.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Musall it was resolved that the abstract of audited vouchers dated August 13, 2020, with the exception of Water Construction, Claim #12 from 4<sup>th</sup> Generation Construction, be approved as read by the Town Clerk.**

The question of the approval of the August 13, 2020, abstract of audited vouchers 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 motion was thereupon declared duly adopted.

**2019 FINANCIAL STATEMENT PRESENTATION**  
**Mary Young-Lumsden & McCormick, LLP**

Supervisor Ellis indicated that the 2019 financial audit results for the Town have been received. He introduced Mary Young, Lumsden & McCormick, to summarize the findings.

Ms. Young gave a brief explanation of the findings. The Town is in receipt of the Independent Accountants’ Report as it pertains to Town Board, Town Justices and Management; Management Letter and the Communication with those Charged with Governance. She also indicated that the result of the 2019 audit summary result is an unmodified opinion on financial statements which is the highest level it can achieve and there is no material weakness in internal control.

Assets - an increase, which is a function of a positive change in the Town’s net position. This is mostly made up of cash and accounts receivable.

Liabilities- mostly made up of any accounts payable the Town had at the end of the year also the BAN payable and that went down because of a decrease in your BAN payable balance because the Town is paying off those BAN’s year to year. The long term debt and other liabilities- the bond payments, as well as a capital lease. The Town is paying off the bond and the last payment is due in 2020. So the decrease in the long term debt and other liabilities is a function of making the principal payments on the debt. Employee benefits and liabilities, as well as the deferred outflows of resources and the deferred inflows of resources have to do with the liabilities associated with the New York State Pension liability that that the Town has and the Town’s other post-employment benefits and your length of service award program benefits.

Town’s revenues- real property taxes increased about 2.5% -sales tax, increased about 2%, which was consistent with what was observed at other municipalities within Niagara and Erie County for sales tax. Both of those numbers make up about 79% of the Town’s total revenue. There was an increase in fines and forfeitures and also the Town

received a DEC Grant that increased that category. Miscellaneous revenue, interest, income, and also, in the case of this year, included a research and insurance recovery that the Town received from some building damage. The Town had about a 3% increase in revenue compared to 2018.

### **SAUNDERS SETTLEMENT ROAD WATERLINE REPLACEMENT**

Tim Walck-Wendel reported the following:

The Saunders Settlement Road Waterline Replacement is proceeding on schedule. The services should be all transferred by tomorrow, if not it will be finished on Monday. Next week, they'll be starting to make the major interconnections at the various points. There will be individuals out of water each time that an interconnection is made and those individuals will be contacted ahead of time. Restoration will begin after those interconnections are done.

Pay request #2 from 4<sup>th</sup> Generation in the amount of \$234,184.98. Wendel is recommending approval.

Councilman Foe asked Mr. Walck what the anticipated remediation time frame for lawns, etc. would be. Mr. Walck indicated it would be done by the first or second week of September. Estimated completion date for the project is around the 18<sup>th</sup> of September.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Roberts it was resolved to approve the 2nd payment request from 4<sup>th</sup> Generation Construction in the amount of \$234,184.98. (Water Construction-Claim #12)**

The question of the approval of payment to 4<sup>th</sup> Generation 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 motion was thereupon declared duly adopted.

### **TOWN CLERK REPORTS**

The Town Clerk reported receipt of the following:

- Town Clerk Report July : Total Receipts: \$36,793.69
- Building Inspector Report July: Total fees collected: \$4,120.40  
Total estimated value of construction: \$1,145,386.00

### **CORRESPONDENCE:**

The Town Clerk is in receipt of several correspondences and listed as follows:

**Gary Billingsley-Town Attorney**-copy of a letter dated 8/5/2020. It is addressed to Tyler Booth re: Forsyth-Warren Tavern and addresses each concern that came before the Town Board last month.

**Tyler Mayers**-email dated 8/9/2020. He is inquiring about private town meetings and officials not responding to residents.

**Mary Brenzel**- email dated 8/9/2020. She has concerns about the accidents that keep occurring at the corner of Townline Road and Ridge Road.

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**Forsyth Tavern**- email dated 8/11/2020. Expressed the frustration they feel with town officials for their lack of response to any correspondence and delaying the forward progress of the Tavern.

**Dave Edbauer**- emails dated 7/27, 7/28, 8/3, 8/5, 8/10 & 8/12/2020; one phone call dated 8/12/2020. He is inquiring about the length of time that the audio of the Town Board meetings are posted on the website and whose decision to remove them after 30 days and why.

The Town Clerk has consulted with the NYS Committee on Open Government and the Association of Towns and received responses from them on 8/11 & 8/12/2020. Both advised that town's do not have a legal obligation to post its minutes or recordings of meetings on its website. If a town chooses to do so, it is up to the discretion of the town as to how long the information is posted.

The Clerk has two weeks from the meeting to post a draft copy of the minutes on her bulletin board. The Town does also post it on the website. During the pandemic, with the use of the online meeting program, the Town has had the opportunity to post an audio link along with the draft copy of the minutes on the website. After the minutes are approved, generally 30 days, the approved minutes replace both the draft and the audio. The audio is available upon request for four months, the time frame recommended by the NYS Archives retention schedule. Pending any new guidelines or legislation, the town is in compliance.

## **HIGHWAY SUPERINTENDENT REPORTS**

Councilman Foe reported the following on behalf of Mr. MacSwan:

- Blackman Rd. was chip sealed and it will be swept off the week of 8/17/20 weather permitting. This is a process that prolongs the life of the asphalt.
- Paving will be completed on Suberra Rd. from the tracks to Rt. 31. Next week.
- A registered letter will be going to the Gough residence regarding the drainage ditch on Lower Mt. Rd. and the survey and cleaning of that ditch.
- Routine brush pick up will begin on September 1<sup>st</sup>, along with road striping.
- Bobcat of Buffalo- coming out to install new brush hog mower attachment to the mini excavator-warranty reasons.
- Dream Team construction did the repair work and ceiling on the Town Highway garage, credited back \$1,500.00, back to the Town because the job ran one day shorter than they had anticipated.

## **WATER SEWER REPORTS**

Councilman Foe reported the following on behalf of Mr. MacSwan:

- Water service will be off on 8/18/20 for the main line splice on Rt. 31 for the Pascoe Subdivision- notification will be sent out.

Supervisor Ellis indicated that the water service shut down will also affect the Northway/Southway Drive area as well.

## **ATTORNEY:**

Mr. Roberson reported the following:

Mr. Roberson is in contact with the insurance company regarding the complaint against the BOCES, the Town of Cambria is named as a responsible party. The Town has nothing to do with the BOCES building and he has asked the attorney to drop the Town as a defendant. The same request was made a year ago.

Supervisor Ellis reported as follows:

## **BEAR RIDGE SOLAR PROJECT**

No updates.

## **FIRE CO. INSURANCE (ISO)**

Insurance Services Office, the ISO, completed a review of the Cambria Fire Department activities and their capabilities to provide fire protection to the Town of Cambria. This is an insurance rating service that many of the fire insurance companies used to set rates. This examination was conducted under the fire suppression rating schedule program. As a result of that, the Cambria Fire District stays within the Public Protection Classification of 6 and 6S, which is the best they can do. They look at the distance from hydrants, locations of fire stations. The amount of apparatus that the company has, where it is stationed throughout the town, water flows, etc. They were very complimentary of the Cambria Fire Company and for the support that they provided and their co-operation during that analysis.

## **CORRESPONDENCE**

Supervisor Ellis is in receipt of a letter Mike Weber, and he is the project manager of Niagara County Entertainment. He works for the Carnegie Art Center and they're proposing a community art project within the county of Niagara; 12 individual murals in 12 locations throughout Niagara County. Every town in the county received one mural each. They talk about murals being placed on exterior walls and high traffic areas. We don't have a lot of that and high traffic areas, like 104, they run through residential areas so we'll be taking a look that. The projected start date is spring summer of 2021.

## **NEW BUSINESS**

### **ACCEPTANCE OF THE 2019 AUDIT OF TOWN FINANCIAL STATEMENT**

**Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam, it was resolved to acknowledge the receipt and filing of the audit of the Town of Cambria financial statements for the period ending 12/31/2019 as prepared by Lumsden & McCormick, LLP certified public accountants. The audit included the agreed upon procedures report on Town Justice, cash activity, and a review of the 2019 Justice Court records and dockets. A summary was provided with the report.**

The question of the receipt and filing of the audit of the Town of Cambria financial statements for the period ending 12/31/2019 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 motion was thereupon declared duly adopted.

## **REFUSE AND RECYCLING COLLECTION**

Supervisor Ellis reported that bids were received from the advertising for bids for waste, disposal, and collection, and also for recycling collection disposal. Modern had the most favorable bid: \$206.59 per unit per year & Waste Management base bid was \$284.06. This is approximately a \$78.00 difference. The contract is for six years with the option to extend for 2 additional 3 year periods. The annual rate of increase will be fixed to the CPI, Consumer Price Index, for water, sewage and trash collection and it will be capped at 3.5%.

As a comparison, the CPI for going into 2021 is 1.5. The rate increase as it translates to the Cambria residents and the amount that they pay for trash and recycling will be an increase of about 18%. That's a little bit more than what we have suggested when we sent out the letter that residents recently received.

There were three options to the bid.

Option 1: Additional rate to collect an extra cart- If someone feels that they need to add a cart, for all the trash that they generate they would be charged an extra \$25.15 for handling that second cart.

Option 2: Cart maintenance- where the waste hauler would take over maintenance of all of the carts and that would cost \$25.00 a cart. We don't want to accept that one. The Town does its own maintenance on the recycling carts and works out well. It's not a major burden, and we would prefer to do the same going forward with the trash carts.

Option 3: Recycling alternate for \$4.31 a month. This is based on the current price of recycling. Currently the fees the haulers are getting for recycling materials has gone up considerably. This is mainly because of paper and cardboard products and it's projected to stay fairly high for the next few years. If it does, that means the amount of the \$206.59 that the waste hauler is charging for recycling would drop and we'd save ourselves a little bit of money. So the Town should adopt option three.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Hurtgam, it was resolved to accept the base rate of \$206.59, a bid by Modern for a six year contract with 2, 3 year renewals, including option number one, an additional rate at \$25.15 per unit to collect an extra cart and option number three rate of \$4.31 per month for recycling collection. The maximum annual rate of increase is capped at 3.5% and will be fixed to the Consumer Price Index for water, sewer and trash collection.**

The question of the acceptance of the a bid by Modern for a six year contract with 2, 3 year renewals, 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 NO**

The motion was thereupon declared duly adopted.

As far as refuse carts themselves, Supervisor Ellis talked to two of the other supervisors about adding a joint bid for the carts. That was done for the recycling carts a few years ago with a certain amount of success. There is a state contract in the State of Massachusetts which one of the towns in Niagara County took advantage of at a very good rate, but it's a different vendor than what we have for our present recycling carts. In talking to the supervisors, we would like to stay with the current vendor so that we maintain a commonality of repair parts and it is a lot easier to maintain both recycling and the refuse carts.

#### **ADDITIONAL MATTERS-**

#### **TOWN JUSTICE**

The Town Board received a request from the Town Justices to create and hire two more Court Officers. Currently they have three. One of them will not be available for six months because of surgery. This will give the court five officers.

**Upon a motion duly made by Councilman Musall and seconded by Councilman Foe, it was resolved to authorize the Supervisor to submit a personnel request to Niagara County Civil Service for two Town Security positions.**

The question of the authorization for the Supervisor to submit a personnel request to Niagara County Civil Service for two Town Security positions was put to a vote on roll call, which resulted as follows:

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**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.

**ADJOURNMENT**

The meeting was adjourned by motion made by Councilman Roberts and seconded by Councilman Foe.  
Time: 7:44 pm

The question of the approval to adjourn 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 motion was thereupon declared duly adopted.

Respectfully submitted,

Tamara J. Cooper, Town Clerk