

**TOWN OF CAMBRIA TOWN BOARD**

**AUGUST 10, 2006**

The regular meeting of the Town of Cambria Town Board was held at 8:00 PM on the 10<sup>th</sup> day of August 2006 at the Town Hall, 4160 Upper Mountain Road, Town of Cambria, NY

**BOARD MEMBERS PRESENT:**

Wright H. Ellis, Supervisor  
Robert E. Blackman, Councilman  
George J. Bush, Councilman  
Debra L. Kroening, Councilwoman

**ALSO PRESENT:**

Jon T. MacSwan, Highway Superintendent  
Lou Ann Murawski, Town Clerk  
Edwin J. Shoemaker, Attorney  
Seven interested individuals

**ABSENT:**

Matthew P. Foe, Councilman  
Amel S. Jowdy, Jr., Water/Sewer Superintendent

Following salute to the flag, Supervisor Ellis called the meeting to order.

A moment of silence was observed in memory of Vernetta A. Genter, Historian Emeritus. Supervisor Ellis reflected on the contributions made by Mrs. Genter during her 37 years as Town Historian, which included the founding of the Cambria Historical Society. She will be fondly remembered and missed by those who knew her.

**APPROVAL OF MINUTES**

**Upon a motion duly made by Councilman Blackman and seconded by Councilman Bush, it was resolved that the Minutes of the Town Board meeting of July 13, 2006 be approved as presented.**

**Ayes: Blackman, Bush, Ellis, Kroening**

**-Motion Carried-**

**APPROVAL OF VOUCHERS**

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

Cemetery Fund	Claims 10 – 13	\$ 136.91
Drainage Fund	Claims 31 – 35	\$ 491.15
General Fund	Claims 358 – 400	\$35,994.43
Highway Fund	Claims 146 – 160	\$44,936.62
Recreation Fund	Claims 28 – 43	\$ 3,088.82
Refuse Fund	Claims 13 –15	\$41,432.61
Sewer Construction Fund	Claim 2	\$ 210.00
Sewer Operating	Claims 58 – 63	\$ 302.37
Trust Agency Fund	Claim 32	\$ 88.27
Water Construction Fund	Claim 13	\$ 3,923.75
Water Operating Fund	Claims 130 – 150	\$54,651.25

**Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to approve the abstract of audited vouchers as presented.**

**Ayes: Blackman, Bush, Ellis, Kroening**

**-Motion Carried-**

**RIGHT TO FARM LOCAL LAW**

Supervisor Ellis indicated that under SEQRA a Determination of Non-Significance (Negative Declaration) has been determined as the proposed action will not result in any significant adverse environmental impacts.

**Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved that a Determination of Non-Significance (Negative Declaration) be Issued under SEQRA.**

**Ayes: Blackman, Bush, Ellis, Kroening**

**-Motion Carried-**

**Upon a motion duly made by Councilman Blackman and seconded by Councilwoman Kroening, it was resolved to enact Local Law No. 1, 2006, a local law entitled, "Right to Farm Law".**

**Ayes: Blackman, Bush, Ellis, Kroening**

**-Motion Carried-**

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**LOCAL LAW NO. 1 OF THE YEAR 2006**

Be it Enacted by the Town of Cambria Town Board as follows:

**Section 1. Legislative Intent and Purpose:**

The Town of Cambria Town Board finds, declares and determines that agriculture is vital to the Town of Cambria, New York because, as a livelihood, it provides employment and by its diverse nature, agriculture promotes economic stability. Further, agriculture allows for the conservation of open space and promotes environmental quality, without increasing the demand for services provided by local governments. The Town of Cambria Town Board recognizes that in order to maintain a viable farming economy within the Town of Cambria, farmers must be afforded protection, allowing them the right to farm. When non-agricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operation or are discouraged from making investments in agricultural improvements.

It is the purpose of this law to reduce the loss to the Town of Cambria of its agricultural resources by limiting the circumstances under which farming may be deemed to be a nuisance and allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

**Section 2. Definitions**

- a) "Agricultural Practices" shall mean all activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm and the on-farm production, processing and marketing of agricultural products including, but not limited to, the collection, transportation, distribution, storage, and land application of animal waste; storage, transportation and use of equipment for tillage, planting, harvesting, irrigation, fertilization and pesticide application; storage and use of legally permitted fertilizers, limes and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings, storage and use and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products, and livestock, for the sale of agricultural products and for the use of farm labor as permitted by local and state building codes and regulations, including the construction and maintenance of fences.
- b) "Agricultural Products" shall mean those products defined in Section 301(2) of Article Twenty-five –AA (25-AA) of the Agricultural and Markets Law.
- c) "Farm" shall mean the land, buildings and machinery used in the production, whether for profit or otherwise, of agricultural products.
- d) "Farmer" shall mean any person, organization, entity, association, partnership, or corporation engaged in the business of agriculture, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, poultry, fur bearing animals, or fish, the harvesting of timber or the practicing of horticulture or apiculture.
- e) "Generally Accepted Agricultural Practices" shall mean those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe and typical to the industry or unique to the commodity as they pertain to the practices listed in Section 2a entitled "Agricultural Practices".
- f) "Resolution Committee" shall be made up of the Conservation Board Chairman or designee, and a member of one other standing committee of the town designated by the Town Supervisor.
- g) Unless specifically defined, the above words or phrases used in this local law shall be interpreted so as to give them meanings they have in common usage, and to give this Local Law its most reasonable application.

**Section 3. Right to Farm Declaration**

Farmers as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of Cambria at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture. For any agriculture practice, in determining the reasonableness of the time, place and methodology of such practice, due weight and consideration shall be given to both traditional

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customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

1. Reasonable and necessary to the particular farm or farm operation;
2. Conducted in a manner which is not negligent or reckless;
3. Conducted in conformity with generally accepted agricultural practices;
4. Conducted in conformity with all local, state and federal laws and regulations;
5. Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person; and
6. Conducted in a manner that does not unreasonably obstruct the free passage or use of navigable waters or public roadway.

Nothing in this Local Law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to failure to follow sound agricultural practices, as set forth in this section.

**Section 4. Duty of Town Officers and Board to Consider Impact of Farm Operations on Certain Applications**

The legislative intent and purpose of this law shall be taken into consideration by each town officer and/or board in processing any application requesting rezoning, subdivision approval, temporary conditional permit approval, site plan approval and/or special use permit approval when the property which is the subject of such application is located within one (1) mile of an existing farm. Such appropriate and reasonable conditions shall be determined on a case by case basis and may include, but shall not be limited to, requiring declaration, deed restrictions and/or covenants which run with the land which would notify future purchasers and owners of the subject property that owning and occupying such property might expose them to certain discomforts or inconveniences resulting from the conditions associated with agricultural practices and operations in the town.

**Section 5. Informal Resolution of Disputes**

- a. Should any controversy arise regarding any inconveniences or discomforts occasioned by agricultural operation, including, but not limited to, noise, odors, fumes, dust, the operation of machinery, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and/or pesticides, the parties may submit the controversy to the resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action.
- b. Any controversy between the parties may be submitted to the resolution committee whose decision shall be advisory only, within thirty (30) days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party became aware of the occurrence.
- c. The effectiveness of the resolution committee as a forum for resolution of grievances is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.
- d. The controversy shall be presented to the committee by written request of one of the parties within the time limits prescribed above. Thereafter, the committee may investigate the facts of the controversy but must, within thirty (30) days, hold a meeting to consider the merits of the matter and within twenty (20) days of the meeting must render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each party considers to be the pertinent facts.

**Section 6. Severability Clause.**

If any section, subdivision, paragraph, sentence or other portion of this chapter shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, it is the intention of the Town Board that such section, subdivision, paragraph, sentence or other portion so adjudged invalid, illegal or unenforceable, shall be deemed separate, distinct and independent, and the remainder of this chapter shall be and remain in full force and effect.

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Effective Date

This local law shall be effective immediately upon acceptance by the Town of Cambria Town Board and filing within the New York Secretary of State.

**CAMBRIA FAIR VILLAGE WATERLINE PROJECT**

Supervisor Ellis presented an update on the Cambria Fair Village Waterline Project indicating that 3,800 lf of pipe has been installed between Diller Road and Old Shawnee Road. The Contractor is currently working on Fair View Court heading north, with completion of this work scheduled within the next two weeks.

A proposal was received from the Contractor for the sidewalk replacement on Fairview Drive and Fair Court East. Jon MacSwan recommended acceptance of the proposal for the sidewalk replacement on Fair Court East at an approximate cost of \$16,600.

**Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to direct the Town Engineer to prepare Change Order #2 in the amount of \$23,900 for sidewalk and curb work on Fair Court East and to further authorize the Supervisor to sign the necessary documentation.**

**Ayes: Blackman, Bush, Ellis, Kroening**

**-Motion Carried-**

**TOWN PARK NATURE TRAIL**

Supervisor Ellis reported that the archeological survey has been completed. There will be a meeting next week to develop a timeline for the completion of the roadway and nature trail.

**DILLER ROAD SEWER LINE EXTENSION**

Supervisor Ellis indicated the notice of intent was submitted to NYS Ag/Mkts and we are now awaiting their response, which is expected to be received within the 45-day period.

**REZONING APPLICATION – 28.2 ACRES ON JUNCTION ROAD FROM AGRICULTURAL RESIDENTIAL TO INDUSTRIAL**

A letter was received from the Planning Board recommending the rezoning of 28.2 acres of property on Junction Road from Agricultural-Residential to Industrial.

**Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to call a public hearing for 8:00 PM on September 14, 2006 on the matter of rezoning 28.2 acres on Junction Road from Agricultural-Residential to Industrial.**

**Ayes: Blackman, Bush, Ellis, Kroening**

**-Motion Carried-**

**ROUTE 31 SEWER EXTENSION**

Supervisor Ellis indicated the paperwork has been submitted to the Niagara County Health Department and we are awaiting their approval.

**CONCERNS OF CITIZENS**

Mr. Fred Barone, Lower Mountain Rd. indicated he has prepared a memo for the Board to review which briefly explains what people should expect when they move into a rural community. He expressed his appreciation to the Town Board for enacting the Right to Farm legislation.

Mr. Kenith Hill, 3857 Eagle Drive, asked if the Board had any plans for the abandoned buildings in the vicinity of his property. Mr. Shoemaker responded there has been a lot of discussion; they are hoping to get the properties cleaned up.

**TOWN CLERK REPORTS**

The Town Clerk reported as follows:

- Building Inspector's Report – July 2006 – Receipts: \$2,440  
Total estimated value of construction: \$476,396
- Niagara County SPCA Report – July 2006 – 41 Animal Contacts

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- Request from Cambria Volunteer Fire Company to add Gregory Graff, 5006 Escarpment Drive, Lockport, NY to the roster of active members.

**Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to approve the request of Cambria Volunteer Fire Company to Include the name of Gregory Graff to the roster of active members.**

**Ayes: Blackman, Bush, Ellis, Kroening      -Motion Carried-**

- Request from Frank Scarfone, 4229 Cambria-Wilson Rd., for permission to have a live band at his residence on August 26<sup>th</sup> from 6 PM – 10 PM

**Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to approve the request of Frank Scarfone to have a live band at his residence on August 26<sup>th</sup> from 6 PM – 10 PM.**

**Ayes: Blackman, Bush, Ellis, Kroening      -Motion Carried-**

**MOUNT VIEW CEMETERY – DESIGNATION OF CREMAINS GARDEN AREA**

The Clerk indicated the Board resolution as adopted on June 8, 2006, designated as a Cremains Garden area certain lots in Section A; the lots are in Section B, not Section A. A correction to the Resolution is necessary.

**Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to correct the Minutes of June 8, 2006 to reflect the designation of the cremains garden area as Section B.**

**Ayes: Blackman, Bush, Ellis, Kroening      -Motion Carried-**

**RESOLUTION REQUESTING NEW YORK STATE TO AMEND ENVIRONMENTAL CONSERVATION LAW TO PROTECT THE GREAT LAKES SYSTEM**

The following resolution was presented for the Board's consideration:

**WHEREAS**, it is extremely important to the health and welfare of the citizens of Western New York to receive protection under the law, and

**WHEREAS**, the United States of America and Canada entered into the Great Lakes Water Quality Agreement in 1978, and

**WHEREAS**, the Great Lakes Water Quality Agreement of 1978 states, "The discharge of toxic substances in toxic amounts be prohibited and the discharge of any or all persistent toxic substances be virtually eliminated," and

**WHEREAS**, New York State has an opportunity to enact legislation that will prevent toxic substance discharges to the Great Lakes System from hazardous waste disposal facilities, and

**WHEREAS**, the intent and letter of the Great Lakes Water Quality Agreement of 1978 should be reflected in New York State's hazardous waste siting requirements, and

**WHEREAS**, it is the sincere desire of the Town of Cambria Town Board, representing the residents of the Town of Cambria, to respectfully request that the State of New York enact legislation that ensures new hazardous waste facilities cannot discharge persistent toxic substances into the Niagara River, Lake Ontario and other Great Lakes System waterways in Niagara County,

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town of Cambria Town Board implores the State of New York to amend ECL Section 27-1109 (State siting requirements) by adding a new subdivision 7 stating:

"7. NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, NO NEW OR PENDING APPLICATION FOR A DISPOSAL FACILITY SUBJECT TO SECTION 27-1105 OF THIS TITLE SHALL BE SITED IN A LOCATION WITH POTENTIAL TO DISCHARGE TO THE GREAT LAKES SYSTEM, AS THAT TERM DEFINED IN TITLE 33 OF THE UNITED STATES CODE."

**AND BE IT FURTHER, RESOLVED** that copies of this resolution be forwarded to, the Governor of the State of New York, and the State Attorney General, and that a response be requested from each elected official.

**Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to approve the aforementioned resolution.**

**Ayes: Blackman, Bush, Ellis, Kroening      -Motion Carried-**

**HIGHWAY SUPERINTENDENT REPORTS**

The Highway Superintendent reported as follows:

- Ditch Petition – Request approval for Voelker ditch (Route 31 and Junction Road)

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to approve the Ditch Petition for the Voelker property located in the vicinity of Route 31 and Junction Road.

**Ayes: Blackman, Bush, Ellis, Kroening**

**-Motion Carried-**

- Water Building – work has been completed on the exterior including new siding and windows
- Andrews Road Ditch Cleaning – work is progressing fairly well
- Raymond Road – Culverts have been changed and guard rails will be installed

**ARTICLE 75 PROCEEDING – THOMAS SCHULER**

With regards to the findings and recommendations of the Hearing Officer relative to the charges filed against Thomas Schuler, Mr. MacSwan recommended that the Town Board not accept the recommendations of the Hearing Officer.

The following resolution was presented for the Board's consideration:

**WHEREAS**, the Town Highway Superintendent, based upon previous conduct of a Town Highway employee, Thomas Schuler, has recommended his dismissal and firing, and

**WHEREAS**, this board has considered allegations contained in the correspondence filed with the Board by Jon T. MacSwan, said Highway Superintendent;

**NOW, THEREFORE**, the Town Board hereby authorizes its Town Attorney to initiate proceedings as required by law to terminate the employment of Thomas Schuler effective immediately and to take all steps necessary to effectuate this Resolution.

Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to approve the aforementioned resolution.

**Ayes: Blackman, Bush, Ellis, Kroening**

**-Motion Carried-**

Supervisor Ellis stated that any inquiries by the media relative to the matter will be referred to the Town Attorney.

**WATER/SEWER MATTERS**

Board members were presented with information on the following:

- **Pressure Reducing Valve** – Green Road and Thrall Road. Quote received from SAR sales in the amount of \$12,944. There are funds budgeted for 2006.

Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to accept the proposal of SAR Sales in the amount of \$12,944 for Pressure Reducing valves as per quote #6046 dated July 27, 2006.

**Ayes: Blackman, Bush, Ellis, Kroening**

**-Motion Carried-**

- **Fire Hydrant Seat Removal Tool/Impact Wrench hydrant set tool** - Quote received from Linemans Supply in the amount of \$7,500.

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to authorize the purchase of a fire hydrant seat removal tool kit and impact wrench hydrant set tool from Linemans Supply, Inc. in the amount of \$7,500.00 as per quote dated July 31, 2006.

**Ayes: Blackman, Bush, Ellis, Kroening**

**-Motion Carried-**

- **Radio Read Meter System** - An updated price quotation has been requested from the three major meter manufacturers. Supervisor Ellis indicated that grant funds will be used to purchase the hand held meter reader and software and budgeted funds will be used for the meters. He recommended that no action be taken on the matter this evening.

**CONFERENCE ATTENDANCE**

Justice Jowdy requested authorization to attend the New York State Magistrates Association Annual Conference to be held in Ellenville, NY from October 7 – 11, 2006. Mileage and one night's lodging will be paid by New York State.

Upon a motion duly made by Councilman Blackman and seconded by Councilwoman Kroening, it was resolved to authorize Justice Jowdy to attend the annual conference of the New York State Magistrates Association to be held in Ellenville, NY from October 7 – 11, 2006.

Ayes: Blackman, Bush, Ellis, Kroening

-Motion Carried-

**ATTORNEY REPORTS**

There were no reports presented by Attorney Shoemaker.

**RECREATION**

Councilwoman Kroening commented that the Summer Day Program will end tomorrow.

**GIS IMPLEMENTATION SERVICES – PROPOSAL FROM WENDEL DUCHSCHERER**

Wendel Duchscherer submitted a proposal for GIS Implementation and services for 2006 for a lump sum basis not to exceed \$31,000 without further authorization by the Town. All work outlined in the proposal will be completed within six months from authorization to proceed.

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Bush, it was resolved to accept the proposal of Wendel Duchscherer for GIS Implementation and services for a lump sum not to exceed \$31,000 as per their formal proposal dated July 31, 2006.

Ayes: Blackman, Bush, Ellis, Kroening

-Motion Carried-

**REGULATIONS RELATING TO PUBLIC ACCESS TO RECORDS**

The Town Clerk presented for the Board's consideration the following revised regulations relating to public access to records. The original regulations were adopted by the Town Board in 1975 and were in need of updating.

**TOWN OF CAMBRIA, NEW YORK**

**PUBLIC ACCESS TO RECORDS REGULATIONS**

1. Purpose and scope
2. Designation of Records Access Officer
3. Location
4. Hours for public inspection
5. Requests for public access to records
6. Subject matter list
7. Denial of access to records
8. Fees
9. Public notice
10. Severability

**Section 1. Purpose and Scope**

- (a) The Town of Cambria Town Board finds that the people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. The more open a government is with its citizenry, the greater the understanding and participation of the public in government. The Town of Cambria Town Board therefore declares that government is the public's business and that the public, individually and collectively and represented by a free press, should have access to the records of government in accordance with the provisions of this article.
- (b) These regulations provide information concerning the procedures by which records may be obtained.
- (c) Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.

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- (d) Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

Section 2. Designation of Records Access Officer:

- (a) The Town of Cambria Town Board is responsible for insuring compliance with the regulations herein, and designates the following person as Records Access Officer at the following address:

Town of Cambria Town Clerk  
4160 Upper Mountain Road  
Sanborn, New York 14132

[townclerk@townofcambria.com](mailto:townclerk@townofcambria.com)

- (b) The Records Access Officer is responsible for insuring appropriate agency response to public requests for access to records.

The Records Access Officer shall insure that agency personnel:

- (1) Maintain an up-to-date subject matter list.
- (2) Assist persons seeking records to identify the records sought, if necessary, and when appropriate, indicate the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing records.
- (3) Contact persons seeking records when a request is voluminous or when locating the records involves substantial effort, so that personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested.

(4) Upon locating the records, the Records Access Officer shall take one of the following actions:

- Make records available for inspection; or
- Deny access to the records in whole or in part and explain in writing the reasons therefore.

(5) Upon request for copies of records:

- Make a copy available upon payment or offer to pay established fees, if any; or,
- Permit the requester to copy the records

(6) Upon request, certify that a record is a true copy; and

(7) Upon failure to locate records, certify that:

- (a) The Town of Cambria is not the custodian for such records; or
- (b) The records of which the Town of Cambria is a custodian cannot be found after diligent search.

Section 3. Location

Records shall be available for public inspection and copying at:

Town of Cambria Town Hall  
4160 Upper Mountain Road  
Sanborn, New York 14132

Section 4. Hours for public inspection

Requests for public access to records shall be accepted and records produced during the following hours when the office of the Town Clerk is open for business:

Monday through Friday from 8:00 am – 3:00 pm

Section 5. Requests for public access to records:

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- (a) A written request may be required, but oral requests may be accepted when records are readily available.
- (b) If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.
- (c) A response shall be given within five business days of receipt of a request by:
  - (1) informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;
  - (2) granting or denying access to records in whole or in part;
  - (3) acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than twenty business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within twenty business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or
  - (4) If the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgment specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.
- (d) In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.
- (e) A failure to comply with the time limitations described herein shall constitute a denial of a request that may be appealed. Such failure shall include situations in which an officer or employee:
  - (1) fails to grant access to the records sought, deny access in writing or acknowledge the receipt of a request within five business days of the receipt of a request;
  - (2) acknowledges the receipt of a request within five business days but fails to furnish an approximate date when the request will be granted or denied in whole or in part;
  - (3) furnishes an acknowledgment of the receipt of a request within five business days with an approximate date for granting or denying access in whole or in part that is unreasonable under the circumstances of the request;
  - (4) fails to respond to a request within a reasonable time after the approximate date given or within twenty business days after the date of the acknowledgment of the receipt of a request;
  - (5) determines to grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request, but fails to do so, unless the agency provides the reason for its inability to do so in writing and a date certain within which the request will be granted in whole or in part;

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- (6) does not grant a request in whole or in part within twenty business days of the acknowledgement of the receipt of a request and fails to provide the reason in writing explaining the inability to do so and a date certain by which the request will be granted in whole or in part; or
- (7) responds to a request, stating that more than twenty business days is needed to grant or deny the request in whole or in part and provides a date certain within which that will be accomplished, but such date is unreasonable under the circumstances of the request.

Section 6. Subject Matter List

- (a) The records access officer shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to subdivision two of Section eighty-seven of the Public Officers Law.
- (b) The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- (c) The subject matter list shall be updated annually. The most recent update shall appear on the first page of the subject matter list.

Section 7. Denial of Access to Records

- (a) Denial of access to records shall be in writing stating the reason therefor and advising the requestor of the right to appeal to the individual or body established to determine appeals, who shall be identified by name, title, business address and business phone number.
- (b) If requested records are not provided promptly, as required in Section 5 of these regulations, such failure shall also be deemed a denial of access.
- (c) The following body shall determine appeals regarding denial of access to records under the Freedom of Information Law:

Town of Cambria Town Board  
4160 Upper Mountain Road  
Sanborn, New York 14132

Telephone: (716) 433-7664

- (d) Any person denied access to records may appeal within thirty days of a denial.
- (e) The time for deciding an appeal by the individual or body designated to determine appeals shall commence upon receipt of a written appeal identifying:
  - (1) the date and location of request for records;
  - (2) a description, to the extent possible, of the records that were denied; and
  - (3) the name and return address of the person denied access.
- (f) A failure to determine an appeal within ten business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.
- (g) The person or body designated to determine appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Open Government  
Department of State  
41 State Street  
Albany, NY 12231

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- (h) The person or body designated to determine appeals shall inform the appellant and the Committee on Open Government of its determination in writing within ten business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in subdivision (f) of this section.

**Section 8. Fees.**

- (a) There shall be no fee charged for:
- Inspection of records;
  - Search for records;
  - Any certification pursuant to this part
- (b) Copies may be provided without charging a fee.
- (c) Fees for copies may be charged, provided that:
- (1) the fee for copying records shall not exceed 25 cents per page for photocopies not exceeding 9 by 14 inches.
  - (2) the fee for copies of records not covered by paragraphs (1) of this subdivision, shall not exceed the actual reproduction cost which is the average unit cost for copying a record, excluding fixed costs of the agency such as operator salaries.

**Section 9. Public Notice**

A notice containing the title or name and address of the records access officer and appeals person or body and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.

**Section 10. Severability.**

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons or circumstances.

**Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to adopt the Regulations Relating to Public Access to Records as presented, superceding the resolution adopted by Town Board on April 3, 1975.**

**Ayes: Blackman, Bush, Ellis, Kroening      -Motion Carried-**

**SECURITY FENCING – PAYMENT OF INVOICE**

An invoice was received from the Niagara County Emergency Services in the amount of \$42,723.56, which is the amount due towards the security fencing which was installed. The Town had agreed to pay for Alternates 1, 2 and 3.

**Upon a motion duly made by Councilman Blackman and seconded by Councilwoman Kroening, it was resolved to authorize payment of Invoice #CSS-065-05 to Niagara County in the amount of \$42,723.56.**

**Ayes: Blackman, Bush, Ellis, Kroening      -Motion Carried-**

**BI-CENTENNIAL COMMITTEE**

Supervisor Ellis recommended the appointment of Thomas J. Reed, 5292 Cambria Road, to serve as a member of the Bicentennial Committee.

**Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to appoint Thomas J. Reed as a member of the Bicentennial Committee.**

**Ayes: Blackman, Bush, Ellis, Kroening      -Motion Carried-**

**ADDITIONAL MATTERS**

- **Final State Equalization Rate** – Supervisor Ellis indicated the Town has received the Certificate of the Final State Equalization Rate for the 2006 Assessment Roll which reflects 100, as established by the New York State Board of Real Property Services
- **Grant Award-Recycling Project** – Supervisor Ellis announced that he has received notification from the NYSEC that our application for a grant for the purchase of a Chipper and dump truck which was submitted in 2003 has been approved for a total state share of \$30,843.00. He explained the Highway Department initiated the grant submittal in 2003 which was re-submitted about a year ago.
- **Court Room Security Personnel** – Councilman Bush indicated the Committee to appoint court security officers recommends the appointment of Shawn McIntyre, 5242 Randolph St., Sanborn, NY and Roger Schreuder, 4400 Green Road, Lockport, NY

**Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to hire Shawn McIntyre and Roger Schreuder as court room security officers in accordance with the resolution adopted by the Town Board on April 13, 2006.**

**Ayes: Blackman, Bush, Ellis, Kroening      -Motion Carried-**

- **Annual Yard Sale** – Councilman Bush indicated that the funds received from advertising sponsors for the garage sale brochure has resulted in a surplus.
- **Gazebo Concert** – The Doerfel Family Bluegrass Band will be performing at the Town Gazebo on August 20<sup>th</sup> from 6 PM – 8 PM
- **Thrall Road** – Councilman Blackman mentioned the condition of Thrall Road Hill. Mr. MacSwan indicated he has been in contact with the County on several occasions about Thrall Road and the shoulder on Upper Mountain Road. He suggested the Town Board submit a letter requesting the repair. Mr. MacSwan indicated he would prepare the necessary information for the letter.

**Upon a motion duly made by Councilman Blackman and seconded by Councilwoman Kroening, it was resolved to request the Niagara County Highway Department to rectify the hazardous condition on Thrall Road Hill.**

**Ayes: Blackman, Bush, Ellis, Kroening      -Motion Carried-**

- **Route 104 Bridge** – Jon MacSwan indicated the NYSDOT is nearing completion of the construction work on Route 104.

**ADJOURNMENT**

As there was no further business, the meeting was adjourned by motion made by Councilwoman Kroening and seconded by Councilman Blackman. Time: 8:55 PM

Respectfully submitted,

Lou Ann Murawski, Town Clerk