



Town of Porter
Town Board Meeting

3265 Creek Road
 Youngstown, NY 14174
TownofPorter.Net

~ Minutes ~

John MacArthur
 (716) 745-3730

Monday, November, 13, 2006

7:00 PM

Town Hall Auditorium

I. Call to Order

7:00 PM Meeting called to order on November 13, 2006 at Town Hall Auditorium, 3265 Creek Rd., Youngstown, NY.

Attendee Name	Organization	Title	Status	Arrived
Merton Wiepert	Town of Porter	Supervisor	Present	
Thomas Baia	Town of Porter	Deputy Supervisor	Present	
Nancy Orsi	Town of Porter	Councilwoman	Present	
Jeff Baker	Town of Porter	Councilman	Present	
Larry White	Town of Porter	Councilman	Present	
Dave Britton	Town of Porter	Town Engineer	Present	
Mike Dowd	Town of Porter	Town Attorney	Present	
Norm Ault	Town of Porter	Bookkeeper	Present	
Scott Hillman	Town of Porter	Highway Superintendent	Present	
Karen Schmidt	Town of Porter	Assessor	Present	

II. Public Portion

1. Report 2006-44

Public Comments

Supervisor Wiepert asked for a moment of silence for Zoning Board Member Art King who passed away on November 7, 2006. Mr. King served on the Town of Porter Zoning Board from February 13, 1978 until his death on November 7, 2006.

PUBLIC COMMENT PERIOD

Mike Mahar, District Manager at CWM: "Thus far, Chemical Waste Management has discharged 30,400,000 gallons of treated wastewater into the Niagara River. CWM hopes to have completed the discharge by Thanksgiving. Chemical Waste Management will be having a Informational Meeting concerning their operations Wednesday November 15, 2006 at 5:00 P.M., if interested in attending, please call Lori Caso at 754-0404."

Mr. William Choboy, 740 Lake Road: "I attended the Farmland meeting on November 9, 2006 at Genesee Community College (Batavia, New York). The meeting was very well organized and a lot of information was talked about. Representatives from the Niagara County Farm Bureau, Co-operative Extension Service, and Tom Tower were on the panel and did a great job."

Marn Weld, 533 Lake Road: "Accept or adopt, these are two words that have different meanings. The Town of Porter accepts the Comprehensive Plan and, to adopt, it is time to "walk the talk,"and urge the Town Board to adopt this Strategic Plan for Preserving Agricultural Lands and Revitalizing the Agricultural Economy in the Town of Porter, New York".

April Fideli, 343 Howard Drive: "I would like to comment on the truck traffic on Creek Road, near the Lewiston-Porter Schools. I take my daughter to pre-school every morning and the trucks traveling to Chemical Waste Management are on Creek Road and convoying. This is in violation of the CAC Agreement. I have written letters to the school, Chemical Waste Management, the towns of Lewiston and Porter, and nothing is being done about this. I would like to see these trucks eliminated from Creek Road completely. According to the CAC Agreement, trucks are not to be traveling by the school during black-out hours of 7:15-9:15 a.m. and 2:00-3:45 p.m."

April Fideli: "Why can't Chemical Waste Management allow them to use the parkway?"

Supervisor Wiepert stated that the CAC agreement requires the use of State roads and, the last time the Town checked, the Robert Moses Parkway did not allow truck traffic. We can set up a meeting with the CAC, the school board and Chemical Waste Management to see how we can resolve this problem."

April Fideli: "Are these meetings of the CAC open to the public?"

Supervisor Wiepert: "Yes, why not come to the next meeting in December in Lewiston and we can discuss this situation."

Vince Agnello, 3314 East Avenue-"I concur with what April is saying. I don't see any signs saying No Truck Traffic. We need to discuss this. The Town and Chemical Waste Management have been very remiss on this, and the Town and CWM are having closed minds on this."

Mike Mahar, Chemical Waste Management: "We will check this out and see what kind of a solution we can come up with to correct the problem."

Amy Witryol, 4726 Lower River Road: "This is in violation of the CAC Agreement."

Supervisor Wiepert: "The Town is working on this problem."

Amy Witryol: "The Town should work with Chemical Waste Management on this truck problem, and possibly have Chemical Waste Management notify its truck companies as to what the CAC Agreement states and what times they are permitted to drive on Creek Road."

Supervisor Wiepert: "Who is to enforce this traffic problem? The Town will sit down and discuss this with Chemical Waste Management and how to alleviate this situation and hopefully negotiate what can be done."

Amy Witryol: "I would like to know when the Town will get together with Chemical Waste Management and start to discuss this."

Supervisor Wiepert: "This is part of the CAC Agreement and will be discussed at the CAC Meeting in Lewiston, next month. Hopefully there will be a resolution to this matter."

Amy Witryol: "Possibly get the DEC out there and investigate this situation as to black out times and convoying."

Mr. Stephen Lewandowski, from the New York State Center for Environmental Information, Inc., made a presentation on the activities of the Lake Ontario Coastal Initiative (LOCI). LOCI is administered in Rochester and represents a joint effort by SUNY Brockport, the Finger Lakes-Lake Ontario Watershed Protection Alliance and CEI (Center for Environmental Information) to assist with improvements on Lake Ontario's near shore waters. The LOCI has received \$300,000.00 in federal grants and, for the first time, were able to use this money to research and implement projects for ten (10) municipalities for water quality testing. Mr. Lewandowski was present to encourage the Town of Porter's participation and to enlist the Town's assistance in the programs continuation. This program is intended to last fifteen (15) years. "I will get back to the Town in early 2007 to see if the Town is interested in this program. In the meantime, I have a survey attached to the information that I gave you (Map of Lake Ontario's New York Coastal Watersheds, Total Phosphorus 2003-2005, New York State Department of Environmental Conservation Ambient water quality guideline) and a how-you-can-help sheet. I ask that you complete the survey, and return it in the envelope. I will report back to the Town with the findings. It is our hope that Congresswoman Slaughter may assist the Town with this project."

RESULT: REPORT ISSUED

III. Minutes Approval

1. Monday, October 16, 2006

Ü Vote Record - Acceptance of Minutes for October 16, 2006 7:00 PM						
			Yes/Aye	No/Nay	Abstain	Absent
p Accepted .. Accepted as Amended .. Tabled	Merton Wiepert	Voter	p	..	..	..
	Thomas Baia	Initiator	p	..	..	..
	Nancy Orsi	Seconder	p	..	..	..
	Jeff Baker	Voter	p	..	..	..
	Larry White	Voter	p	..	..	..

2. Monday, November 06, 2006

Ü Vote Record - Acceptance of Minutes for November 6, 2006 7:00 PM						
			Yes/Aye	No/Nay	Abstain	Absent
p Accepted .. Accepted as Amended .. Tabled	Merton Wiepert	Voter	p	..	..	..
	Thomas Baia	Initiator	p	..	..	..
	Nancy Orsi	Seconder	p	..	..	..
	Jeff Baker	Voter	p	..	..	..
	Larry White	Voter	p	..	..	..

IV. Reports**1. Resolution 2006-129****Payment of Audited Vouchers**

WARRANT:		POST AUDIT - OCT 2006	10/31/06
FUND	01		5,113.81
FUND	02		1,000.55
FUND	03		0.00
FUND	04		125.39
FUND	06		44,125.72
FUND	07		1,317.18
FUND	10		825.44
FUND	31		345.00
FUND	35		927.36
			<u>53,780.45</u>

VOUCHER 'S 8506 THRU 8532

WARRANT:		# 11 NOV 2006	11/13/06
FUND	01		14,449.27
FUND	02		31,949.45
FUND	03		10,113.23
FUND	04		743.87
FUND	06		2,287.10
FUND	07		68,102.50
FUND	31		8,869.46
FUND	35		1,314.06

TOTAL 137,828.94

VOUCHER 'S 8533 THRU 8622

191,609.39

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jeff Baker, Councilman
SECONDER:	Larry White, Councilman
AYES:	Wiepert, Baia, Orsi, Baker, White

2. Report 2006-29**Supervisor's Report - October 2006**

- Supervisors Monthly report for October 2006 was distributed to all Town Board

members.

- September Sales Tax \$103,121.18 up \$7,148.42 from September 2005.

RESULT:	REPORT ISSUED
----------------	----------------------

3. Report 2006-30

Certificate of Appreciation

The Porter Town Hall staff has received a Certificate of Appreciation from the New York State Department of Agriculture and Markets in appreciation of their outstanding support during the recent investigation of the Plum Pox Virus in Niagara County.

RESULT:	REPORT ISSUED
----------------	----------------------

4. Report 2006-31

Town Clerk's Report - October 2006

Water Receipts:	\$ 35,926.35
Sewer Receipts:	10,073.13
Licenses and Fees:	709.18
S.P.C.A. Animal Contacts:	28

RESULT:	REPORT ISSUED
----------------	----------------------

5. Report 2006-32

Supervisor's Assistant Report

1. Completed processing all October 2006 Vouchers and Journal Entries.
2. Prepared Supervisor's Monthly Report for October 2006 and distributed it to the Supervisor and Town Board members.
3. Completed Bi-weekly and Monthly payrolls.
4. Completed Check registers for all check payments.

- 5. Continued maintenance on the Web Page - www.townofporter.net
- 6. Continues working with Deputy Town Clerk on the Minute Traq program.
- 7. Completed and mailed out Fall Town of Porter newsletter.
- 8. Worked on GIS needs assessment.
- 9. Attended Town Board Preliminary 2007 Budget Public Hearing.
- 10. Continued working on new Town of Porter webpage.

RESULT:	REPORT ISSUED
----------------	----------------------

6. Report 2006-33

Assessor’s Report for October

- 1. Completed monthly inspections for verification of sale and completion of building projects.
- 2. Processed monthly sales transfers and splits.
- 3. Met with consultants regarding GIS needs assessment grant.
- 4. Attended Planning Board and Zoning Board of Appeals meetings.
- 5. Mailed STAR renewal forms.
- 6. Met with ORPS to discuss sales analysis and 6-year plan.
- 7. Met with vendor to begin records archiving project.

RESULT:	REPORT ISSUED
----------------	----------------------

7. Report 2006-34

Recreation Report - October 2006

“The Story hour program continues to run smoothly. They average 45 children at each site during both the winter & summer programs. Their holiday project is to help the women & children at Carolyn’s House (a battered women’s shelter) by donating toys & clothing.

The winter volleyball program will begin November 8, 2006. The program will run from 7:00 pm to 9:00 pm every Wednesday.

Manpower- Dave Gombert	-	60/reg hrs.	\$1,116.60
		26/OT hrs.	\$ 725.66
Wayne Pollow	-	62.5/Reg hrs.	\$1,163.12
	-	19/OT hrs.	<u>\$ 530.29</u>
		Total Reg-	\$2,279.72
		Total OT -	\$1,255.95
Fringe Benefit rate 59.82%x			<u>\$3535.67</u>
Total Cost for Manpower			<u>\$5,650.70</u>

Equipment Rental-	1- Medium Duty Dump - 53.5 hrs @ \$32.99 per hr.	\$1,764.96
	1- Brush Chipper- 97.5hrs @ \$14.25 per hr.	\$1,389.37
	1- ¾ Ton 4x4 Pickup - 98 hrs. @ \$9.93	\$ 973.14
	Total Equipment	<u>\$4,127.47</u>

Total Cost to Town of Pendleton **\$9,778.17**

- Shared services agreement may preclude payment for regular hours of employees and equipment. To be determined.

RESULT: REPORT ISSUED

10. Report 2006-37

Special Report - Snow Emergency - Williamsville, NY

Listed below are the expenses incurred by the Town of Porter for the debris clean up in the Village of Williamsville from 10/16/06 thru 10/22/06.

Manpower Costs:

Steve Hillman- Deputy Supt.	80 Reg hrs. @\$20.07 =	\$1,605.66
	47.5 OT hrs. @\$30.10 =	\$1,429.75
Fringe benefit rate 59.82% x	\$3,035.41	= <u>\$1,815.78</u>
Total wages and benefits		= \$4,851.19
Russell Whyte -MEO	80 Reg hrs. @\$18.61 =	\$ 1,488.80
	47.5 OT hrs. @\$27.91 =	\$1,325.72
Fringe benefit rate 59.82% x	\$2,814.52	= <u>\$1,683.64</u>
Total wages and benefits		= \$4,678.16
Total Manpower Costs:		= \$9,529.35

Machinery Rental Costs:

2- Tandem Axle Dump Trucks 18 cu yd- 127.5 hrs. @\$46.50 per hr. ea.=	\$11,857.50
1- Truck Mounted Excavator 1.5 cu yd bucket.- 75hrs. @\$64.00 per hr. =	\$ 4,800.00
1- ¾ Ton 4x4 Pickup 260 hp- 75hrs. @\$19.90 per hr.	= \$ 1,492.50
Total Machinery Rental Costs	= \$18,150.00
Project Cost-	= \$27,679.35
Project Administration Cost 3% of total cost	= \$ 830.38
Total Project Cost:	= \$28,509.73

Machinery Rental Cost are based on FEMA Equipment Rates

RESULT: REPORT ISSUED

11. Report 2006-38

D. P. W. October Report

Highway Department:

1. Completed final brush pick up.
2. Provided assistance to the Town of Lewiston with a truck hauling blacktop for their town hall parking lot repaving project.
3. Both new trucks have been delivered and are being prepared for winter service.
4. The surplus trucks were taken to auction. The return for both was \$29160.00.
5. I attended the SEMO/FEMA Briefing for assistance from the LES Storm on 10/13/06. We are considered an outside contractor to all the municipalities we assisted. They have all been billed for our services.
6. The resurfacing on Mallory Drive and Groveland Ave. has been completed. The edge work and road name sign installation has also been completed.
7. The Snow and Ice Contract between Niagara County and the Town of Porter has been approved by the legislature. I need a board resolution to accept the terms of the new contract and to authorize me to sign on behalf of the town.

Drainage Department:

1. Mowing has been suspended due to the extreme wet weather.

Water and Sewer Department:

1. Completed monthly meter reading.
2. Completed 2 water service installations.
3. We are winterizing all fire hydrants.
4. I attended a meeting of the Lewiston-Porter Sewer Advisory group to discuss plant capacities and the I & I Program. We will be sending the 2 Water/Sewer Maint. Employees to a I & I training session at the treatment plant on 11/15/06.

All members have been asked to be more aggressive with their I & I programs
This is to remove extraneous flows from the plant to improve capacity. The Town of
Porter currently has some excess capacity at the plant but we all would like to see an
improvement to facilitate growth in the community.

Submitted by Scott B Hillman, Hwy/Water Superintendent

RESULT: REPORT ISSUED

12. Resolution 2006-130

N. C. Ice & Snow Contract

This resolution accepts the terms of the Niagara County Ice & Snow contract and
authorizes Highway Superintendent Scott Hillman to sign the Contract on behalf of the
Town of Porter after review by the Town Attorney.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Merton Wiepert, Larry White
SECONDER: Nancy Orsi, Councilwoman
AYES: Wiepert, Baia, Orsi, Baker, White

13. Resolution 2006-135

Traffic Study

The Town Board directs Town Clerk, John MacArthur, to send a letter to the New York
State Department of Transportation to do a traffic study to lower the speed limits in the
Meadow Drive/Manor Drive and Mallory Drive/Groveland Avenue areas.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Larry White, Councilman
SECONDER: Nancy Orsi, Councilwoman
AYES: Wiepert, Baia, Orsi, Baker, White

14. Resolution 2006-131**Water-Sewer Monthly Adjustment**

The following adjustments were made to water/sewer accounts this month.

<u>Account #</u>	<u>Amount</u>	<u>Service</u>
10-0762	-30.00	Water

Meter was misread.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jeff Baker, Councilman
SECONDER:	Nancy Orsi, Councilwoman
AYES:	Wiepert, Baia, Orsi, Baker, White

15. Report 2006-39**Engineer's Report - October 2006**

- Mallory and Groveland Public Improvements: Construction 95 % complete.
- Water Tank Restoration Project: Field inspection and condition assessment report completed; Construction activity for the tank restoration project to be completed in 2007.
- SPDES MS4 Annual Report; 3rd annual report submitted on June 1, 2006 to NYSDEC; a couple of the year 4 priorities include 1) adoption of a local law to prohibit illicit discharges 2) adoption of a storm water management plan 3) staff training. PERMIT becomes effective JANUARY 2008.
- Lake Road Sewer District: \$80k balance available from initial contract with NYSDEC for additional improvements; CRA continuing to coordinate with NYSDEC regarding amendment to the contract between NYSDEC and the Town.

RESULT:	REPORT ISSUED
----------------	----------------------

16. Report 2006-40**Attorney's Report**

1. The Town Board has instructed me to prepare a draft request for proposal to provide municipal sanitary waste disposal services. Our current contract with Modern Disposal expires in January, 2007 and Modern Disposal will consent in writing to provide services on a month to month basis at its current disposal rates pending the completion of the bid process. We should be able to make our selection in January barring unforeseen obstacles.

The specific process for sanitary waste bidding is governed by General Municipal Law 120-w, a copy of which is attached hereto. We are also required to comply with the general contract bid provisions of General Municipal Law sections 101 and 103 which deal with non collusion issues, etc.

At the Board meeting I will request that the board direct that a public notice of the issuance of the request for proposal be advertised in our official newspaper as well as the Environmental Notice Bulletin. A sixty day comment period will follow and ten day period to review any comments which the Town may receive. It is not necessary to hold a public hearing however and we may advertise for bids immediately following the above described seventy day period. The bids may be opened five days after being advertised and the criteria for selection of the contract proposal are set for the in GML 120-w.

2. Robert Slaven's petition to re-zone does not have to be accepted. There is no specific provision related to requests for rehearing of zoning change petitions made to a Town Board. By analogy, there is a statutory scheme for rehearing ZBA petitions so long as there has been a substantial amendment to the ZBA petition and unanimous consent by the ZBA for a rehearing. This rule does not apply to the Town Board and is mentioned only to illustrate the standard for rehearing similar issues. Mr. Slaven has other recourse to challenge the original denial but the Town Board and affected neighbors do not have to repeat the process of site plan review, public notice and hearing, etc. simply because it is requested by the landowner seeking an identical zoning change.

3. Reduction of the number of Zoning and Planning Board members is governed by Town Law sections 267 & 271, respectively. In each instance the board number must be adopted by amendment to the local law or ordinance establishing the seven member boards. A public hearing will be necessary at the next meeting and I recommend a resolution authorizing me to prepare the amendment and issue the public notice. The reduction is accomplished by expiration of the next two annual appointments for each of the boards.

Submitted by Michael Dowd, Town of Porter attorney

RESULT: REPORT ISSUED

17. Resolution 2006-132

Trash Pick-Up Contract

The Town Board directs the Town Attorney to see that a public notice of the issuance of the request for proposal be advertised in our official newspaper as well as the Environmental Notice Bulletin. A sixty day comment period will follow and ten day period to review any comments which the Town may receive. It is not necessary to hold a public hearing however and we may advertise for bids immediately following the above described seventy day period. The bids may be opened five days after being advertised and the criteria for selection of the contract proposal are set for the in GML 120-w.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Thomas Baia, Deputy Supervisor
SECONDER: Jeff Baker, Councilman
AYES: Wiepert, Baia, Orsi, Baker, White

18. Resolution 2006-136

Robert Slaven Zoning Change Request for Re-Hearing

Upon the advice of Town Attorney, Mike Dowd, the Town Board gives notice it will not accept the petition for rezoning, since the same request for a zoning change has already been denied , and the Town Board further directs Town Clerk John MacArthur to notify Mr. Slaven of same, by letter.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Nancy Orsi, Councilwoman
SECONDER: Jeff Baker, Councilman
AYES: Wiepert, Baia, Orsi, Baker, White

19. Resolution 2006-133**Planning & Zoning Board of Appeals**

This resolution sets a Public Hearing December 11, 2006 at 7:00PM in the Porter Town Hall to hear public comments concerning Local Law # 2006-3 which pertains to lowering the number of positions on both the Planning Board and Zoning from 7 members to 5 members.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jeff Baker, Councilman
SECONDER:	Nancy Orsi, Councilwoman
AYES:	Wiepert, Baia, Orsi, Baker, White

20. Report 2006-41**Master Plan Monthly Report for October****Agriculture Project:**

A letter recommending adoption of the Agriculture Strategy was sent to the Town Board.

Agriculture:

"Some of our Porter farmers brought a situation to our attention that we felt required immediate attention by the Town. The issue concerned perceived harassment by the Border Patrol of migrant workers on local farms. As a result local farmers have found it very difficult to retain the help necessary to harvest their crops. As a result, our committee addressed a letter to the Town Board requesting that the Town take action for some immediate relief for our farmers by phone contacts with Assemblywoman Slaughter, Senators Schumer and Clinton. Realizing that a long term solution is in everyone's best interest we also suggested that the Town convene a meeting of neighboring town officials, representatives from our state and federal legislatures, our Farm Bureau and Cornell Cooperative as well as any interested farmers, to explore long-term options. In addition, Cornell University has a Migrant Worker Program which could be very helpful. The letter was cc'd to George Frantz, Clyde L. Burmaster, Paul Bencal, and Paul Lehman."

Land Use Update Project:

The meeting was rescheduled for November 29, 6PM at the Village Hall, due to the October storm.

Submitted by Pat Lynch, Co-Chairman

ADDITIONAL PUBLIC COMMENTS

George Frantz was present to urge the Town Board to adopt the "Strategic Plan for Preserving Agricultural Lands and Revitalizing the Agricultural Economy in the Town of Porter, New York," as opposed to accepting it. He again stressed that this plan is a goal suggestion, not an

absolute; it is a vision. The discussion then centered on the difference between “accept” and “adopt” in reference to the “...Strategic Plan..”

Attorney Dowd brought up the questions of whether this plan amends the Comprehensive Master Plan, agrees with the Master Plan or are there two separate plans that contradict each other.

Councilwoman Nancy Orsi stated: ”Interesting and creative, excellent resources, great job, and the Committee did a good job.”

After more heated discussion on the difference of “accept” or “adopt,” Councilman Baker moved, second by Councilman White, to table the acceptance, or adoption of, the “Strategic Plan...” for thirty (30) days so that Town Attorney Dowd could compile a report, based on his research, for the December 13, 2006 regular board meeting.

RESULT:	REPORT ISSUED
----------------	----------------------

21. Resolution 2006-134

Agricultural Report

This resolution accepts the “A Strategic Plan for Preserving Agricultural Lands and Revitalizing the Agricultural Economy in the Town of Porter, New York” as revised October 7, 2006 and further revised October 17, 2006. This plan will be used as a guideline by peter j. smith & company, inc. in completing the Land Use Update.

RESULT:	TABLED [4 TO 1]	Next: 12/11/2006 7:00 PM
MOVER:	Jeff Baker, Councilman	
SECONDER:	Thomas Baia, Deputy Supervisor	
AYES:	Merton Wiepert, Thomas Baia, Jeff Baker, Larry White	
NAYS:	Nancy Orsi	

22. Report 2006-42

Correspondence

1. Town Board accepted a letter from Douglas Canfield resigning from the Planning Board, effective November 1, 2006.
2. Letter from Julie Koskowski requesting street lighting be installed at corners on the recently paved Mallory Drive & Groveland Avenue.

3. Letter from the Town of Pendleton DPW thanking the Town for its assistance during the recent "October Storm."
4. Letter from the Mayor of the Village of Williamsville thanking Town of Porter DPW team for their efforts during and after the recent snow storm.

RESULT: REPORT ISSUED

23. Report 2006-43

Town Board Comments

The Town Board had no comments so, with no further action, the Town of Porter Board Meeting was adjourned at 9:40 p.m.

John H. MacArthur
Town Clerk

RESULT: REPORT ISSUED
