



Town of Porter

Town Board Meeting

~ Minutes ~

3265 Creek Road
Youngstown, NY 14174

TownofPorter.Net

Kara Hibbard
716-745-3730

Monday, April 10, 2023

7:00 PM

Town Hall Auditorium

I. Call to Order

7:00 PM Meeting called to order on April 10, 2023 at Town Hall Auditorium, 3265 Creek Rd., Youngstown, NY.

Attendee Name	Organization	Title	Status	Arrived
J. Duffy Johnston	Town of Porter	Supervisor	Present	
Jeff Baker	Town of Porter	Deputy Supervisor	Present	
Larry White	Town of Porter	Councilman	Present	
Tim Adamson	Town of Porter	Councilman	Present	
Jipp Ortiz	Town of Porter	Councilman	Present	
Kara Hibbard	Town of Porter	Town Clerk	Present	
Kimberli Boyer	Town of Porter	Bookkeeper	Present	
Elaine Porto	Town of Porter	Deputy Town Clerk	Present	
Dave Burmaster	Town of Porter	Highway Superintendent	Present	
Mike Dowd	Town of Porter	Town Attorney	Present	
Peter Jeffery	Town of Porter	Code Enforcement Officer	Present	

II. Resolutions/Reports

III. Resolutions

1. Resolution 2023-40

Payment of Audited Vouchers

TOWN OF PORTER

WARRANT: POST AUDIT #3A 3/31/23

FUND	01	14,460.37
FUND	02	15,093.63
FUND	04	14,431.28
FUND	06	1,806.14
FUND	07	2,109.56
FUND	10	897.88
FUND	11	0.00
FUND	35	0.00

TOTAL 48,798.86

VOUCHER 'S 31375 THRU 31395

WARRANT:**POST AUDIT #4 APRIL 2023 4/6/23**

FUND	01	53,833.13
FUND	02	136,651.28
FUND	04	63,592.62
FUND	06	34,515.53
FUND	07	239.49
FUND	10	
FUND	11	
FUND	20	
FUND	21	
FUND		

TOTAL		<u>288,832.05</u>
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VOUCHER 'S	31396	THRU	31468
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TOTAL	<u>337,630.91</u>
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Resolution to approve the Vouchers for a total of \$337,630.91 as audited by the Town Board.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jeff Baker, Deputy Supervisor
SECONDER:	Tim Adamson, Councilman
AYES:	Johnston, Baker, White, Adamson, Ortiz

2. Resolution 2023-41

Minutes Approval

Resolution to approve the minutes of the March 13, 2023 Town Board meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry White, Councilman
SECONDER:	Jipp Ortiz, Councilman
AYES:	Johnston, Baker, White, Adamson, Ortiz

3. Resolution 2023-42

Acceptance of Supervisor's Report

Resolution to accept the Supervisor's report from the March 13, 2023 Town Board meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Tim Adamson, Councilman
SECONDER:	Jeff Baker, Deputy Supervisor
AYES:	Johnston, Baker, White, Adamson, Ortiz

4. Resolution 2023-51

Double Sided Exterior LED Message Display Sign

Bid was placed in the Niagara Gazette regarding an LED double sided message display sign and 1 bid was received from N.A.S. Sign Company. The amount of the bid estimate was for \$46,676.00. This includes:

Art Concept, Shop & Construction Drawings
4.2' x 8.40' Exterior LED message display
All aluminum cabinet
Software- ViPlex Express-Cloud based digital signage software through Vnnon
Computer diagnosis, software installation, pre-program design & layout and software training
LED Display parts and components to be warranted for 5 years as provided by the manufacturer
All sitework to be prevailing wage - site survey & stake out for underground & overhead utility conflict
Dig 2 holes - Provide concrete footers 3' x 3' x 5' x 6' deep - set 2 steel poles 5/16" thick 6 x 6" & rebar cage
All internal electrical connections - overall height 9.5" high
On site labor is warranted for 3 years as provided by N. A. S.

Deposit required to start the project is \$23,338.00

Roll call vote: Supervisor Johnston, Deputy Supervisor Baker, Councilman Adamson, Councilman White and Councilman Ortiz were all in favor.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jeff Baker, Deputy Supervisor
SECONDER:	Tim Adamson, Councilman
AYES:	Johnston, Baker, White, Adamson, Ortiz

5. Resolution 2023-58

Add Gloria Baker to the Board of Assessment Review

Resolution needed to replace Eric Bloom on the Board of Assessment Review with Gloria Baker for a 5 year term. His term ended on 9/30/22. Gloria's term will be from 10/01/22 - 9/30/27

Roll call vote: Supervisor Johnston, Deputy Supervisor Baker, Councilman Adamson, Councilman White and Councilman Ortiz were all in favor.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry White, Councilman
SECONDER:	Jipp Ortiz, Councilman
AYES:	Johnston, Baker, White, Adamson, Ortiz

IV. Reports

1. Report 2023-33

Supervisor's Report

MARCH SUPERVISOR'S REPORT 2023

3-14 Met with the engineers on the waterline

3-15 Met with Tim from USI insurance

3-16 Attended Niagara County Water board

3-22 Attended Lew-Port career day

3-25 Attended Buffalo Water Keeper meeting

3-28, 3-29 At the public meetings for the waterline

3-30 Met with Mayor Reismen on garbage contract

4-4 Met with Eagle systems on copier contract

4-6 Met with Greenway bike trail

4-6 Meeting with Old Fort Niagara and our grant writer

4-6 Met with Jason from Climate smart taskforce

RESULT:	REPORT ISSUED
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2. Report 2023-34**Bookkeeper**

Completed processing all March 2023 Vouchers & Journal Entries.

Prepared Supervisor's Monthly Report for March 2023 and distributed it to the Supervisor & Town Board members.

Completed all bi-weekly & monthly payrolls.

Completed check registers for all check payments.

Completed bank recs for the month of March and they balanced.

Started preparing for 2022 audit to be started the week of April 17, 2023

RESULT:	REPORT ISSUED
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3. Report 2023-35**Town Clerk**

- Processed, balanced and completed water and sewer payments for March. Water = \$24,329.58. Sewer = \$4,968.77
- Wrote and recorded a check for \$29298.35 and gave to Kim.
- Processed, balanced and completed clerk fees for the month of March = \$1018.04.
- Processed and recorded 20 daily reports
- Collected, processed and recorded 549 water bill payments and sent to Amanda for posting.
- Prepared and certified 4 death certificates and sent to state, along with 3 birth certificates.
- Printed and mailed 62 dog license renewals. Filled out paperwork for court proceedings for non-payment
- Processed \$210.00 in conservation licenses.
- Handled residents concerns and complaints accordingly. Filled out dump permits.
- Ordered supplies from Eaton's and Forms in a Wink for office staff and charge each department accordingly.

Notarized documents for 6 people. New State Law requirements adhered to. Filed Local Law 1 & 2 with the Dept. of State.

- Processed vouchers for National Grid and National Fuel bills.
- Typed the minutes from the March 13, 2023 Town Board monthly meeting and posted in the minutes book and online. Updated the Town's face book page.
- Responded to 36 emails, empty black box distribute/process. Balance decals for month end. Input and filed record changes from Assessor's dept.
- Processed 4344 tax payments for a total of \$5,994,847.72. Balanced figures with the County.
 - Made trips to the bank with all the deposits for water, sewer, license & Fees and taxes. Also checked the PO Box frequently for tax payments.
 - Recorded 1 FOIL request and gave information to resident.
 - Numerous Porter on the Lake applications recorded and submitted. Copies and payments given to bookkeeper and highway.
 - Filled out and recorded 16 handicap hangers. Sold E Z pass tags.
 - Last but not least, were working on credit card machines with ny.gov.

RESULT:	REPORT ISSUED
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4. Report 2023-36

Assessor

- Continued processing completed building permits into RPSV4
- Processed property transfers for Town and Village, notified appropriate officials
- Accepted applications for property tax exemptions through March 1, 2023
- Approved and/or denied exemption applications. Denial determinations were mailed to affected property owners
- Published the legal notice for the Examination of Inventory and Valuation Data
- Inspected properties in the Town and Village with open building permits for March 1, 2023 taxable status date
- Selah participated in a webinar for CoreLogic (a service agency representing numerous banks)

Sales of note, which will affect our equalization rate going forward:

555 Main St	AV \$286,400	Sale Price \$475,000
1679 Groveland Ave	AV \$109,300	Sale Price \$160,000
2637 Lake Rd	AV \$84,400	Sale Price \$330,000
1021 Youngstown-Wilson Rd	AV \$82,800	Sale Price \$203,000
3900 Ransomville Rd	AV \$126,700	Sale Price \$237,000
2425 Lake Rd	AV \$251,000	Sale Price \$560,000

RESULT:	REPORT ISSUED
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5. Report 2023-37**Highway****HIGHWAY**

- 1.ORDERED 300 TON OF SALT.
- 2.WENT OUT SALTING AND PLOWING 5 TIMES.
- 3.PLOWED SIDEWALKS IN RANSOMVILLE.
- 4.PICKED-UP GARBAGE IN RANSOMVILLE.
- 5.SEVICED EQUIPMENT.
- 6.SMOOTHED OUT SCUFF MARKS FROM PLOW DAMAGE.
- 7.CLEANED UP BRUSH AND TREES FROM WINDSTORM.

WATER AND SEWER

- 1.COMPLETED WATER READINGS FOR THE QUARTER.
- 2.SERVICED AND MANTAINED LIFT STATIONS.

DRAINAGE

- 1.CLEANED BRSH FROM CULVERTS.
- 2.DAN TRUESDELL CLEANED BRUSH OUT OF CREEKS BETWEEN LAKE AND YOUNGSTOWN WILSON RD.
- 3 DAN ALSO CLEANED DEBRI AND BRUSH FROM YOUNGSTOWN LOCKPT RD TO COLD STORAGE IN RANS.

PORTER PARK

- 1.CLEAN GARBAGE AND REPLACED DOGGY BAGS AT PARK.

RESULT:	REPORT ISSUED
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6. Report 2023-39**Building Inspector/Code Enforcement Officer**

- ◆ Reviewed and issued ten (10) **Building Permits** for the month of **March**.
- ◆ Received, Inspected, and followed up on six (6) **New** formal **Complaint/Violations**
- ◆ Completed twenty (20) **inspections** for Permits & Complaints compliance.
- ◆ Coordinated/Reviewed **Planning and Zoning Board applications** and Documentation.
- ◆ Prepared information and participated in the regular **Planning Board** meeting on **March 2, 2022**.
- ◆ Prepared information and participated in the schedule **Zoning Board** meeting for **March 23, 2022**.
- ◆ Attended Town of Porter **Justice Court** for pending Zoning enforcement cases.
- ◆ Coordinated and participated the first **Short Term Rental committee**.
- ◆ Met with Paul Brown on the **Climate Smart Communities** certification requirements.

RESULT:	REPORT ISSUED
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7. Report 2023-40**Recreation**

No Report

RESULT:	REPORT ISSUED
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8. Report 2023-41**Calendar of Events**

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|---------|---|--|
| 4-17-23 | - | Recreation meeting at 6:00 PM |
| 4-27-23 | - | Zoning Board of Appeals monthly meeting at 7:00 PM |
| 5-4-23 | - | Planning Board monthly meeting at 7:00 PM |
| 5-8-23 | - | Town Board monthly meeting at 7:00 PM |

RESULT:	REPORT ISSUED
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9. Report 2023-42**Public Comments****LOWER RIVER ROAD WATER LINE PROJECT**

Meeting of March 28th Comments and Responses to those comments.

Comments:

- The following reasons were given for the replacement of the existing water main: it should have been replaced already due to old age and frequent repairs, is undersized, subjected to higher pressures due to Lewiston's new water line, and experiences 25% water loss.

Responses:

- There is no argument against the planned service replacement if the claims are accurate. At this time there is no reason to believe otherwise.
- However, why is a 12" pipe being replaced with a 12" pipe if the existing, as suggested, is actually undersized?
- A brief search on pipe material longevity returns the useful lives of C.I.P. of 120 years, D.I.P. of 100 years, and PVC or HDPE both at 70 years. Has the pipe been in place for 100 years and has it actually deteriorated to the cost/benefit point of replacement?
- The new PVC pipe may offer less resistance to efficient flow, but per "Bernoulli's Principle" it shouldn't cause pressure increase. (Increase in velocity results in decrease of pressure.)
- 25% loss of the system seems extraordinary; almost like we would be awash in it on a regular basis. Is this an actual loss, or an estimate?
- What is an acceptable percentage of loss; and what will the loss be with new system?

Comments:

- Inability to maintain 10' horizontal separation due to the proximity of the existing sewer.

Responses:

- Reference the State of NY Dept. of Transportation - Sanitary Sewer Main Pipe Installation Details
 - Note 6: New sanitary sewer mains installed parallel to water mains shall have a minimum of 10' horizontal separation (measured edge of pipe to edge of pipe or edge of structure) wherever possible. *When 10' horizontal separation cannot be maintained a vertical separation of at least 1'-6" between bottom of water main and top of sanitary sewer pipe shall be maintained.* If neither separation can be maintained, the sanitary sewer main and water pipe shall be constructed as shown on the contract documents as approved by the appropriate health agency.
- Locate the new water line to comply with the State requirements, and within the existing Right of Way. If the 10' horizontal separation cannot be met, use the alternative approved 1'-6" vertical separation detail.

Comments:

- Construction challenges due to the requirement to maintain existing water service.

Responses:

- The existing 12" service scheduled to be abandoned in place can be kept live throughout the construction duration, and service terminated after final agency acceptance of the new system.

This can be accomplished using commonly accepted practices for construction of this nature.

Comments:

- Construction challenges, traffic delays, and safety concerns if the work is to be performed in the existing Right of Way.

Responses:

- Lower River Road is a peaceful and quiet, no passing, two-lane road. It is somewhat rural in nature, traffic is minimal, and the local drivers are generally a patient lot.
- Residents have long since become accustomed to changing lanes to avoid parked private and public utility trucks and equipment, mail carrier vehicles, landscape maintenance trucks and trailers, and Amazon or UPS delivery trucks. We are also familiar with traffic control diversion into single lanes for miscellaneous roadway construction and maintenance work.
- There is absolutely no reason why normally accepted traffic control measures couldn't be put into place throughout the duration of construction, particularly since it will be done in stages.
- Traffic control is a typical and normally accepted responsibility of the contractor.

Comments:

- Construction challenges due to the proximity of overhead trees, wires, etc.

Responses:

- Modern construction means and methods take into consideration the many hazards of the work, particularly in dealing with overhead obstacles. These issues are readily recognizable and are addressed by the contractor's choice of equipment, operator training, and safety program. Instead of being taken into consideration within the project's design as a reason to avoid the Right of Way it should remain entirely within the purview of the contractor.

Comments:

- The new water line will be constructed within new easements running through private properties and construction cannot begin until all easement documents are signed.

Responses:

- Common and accepted practice requires that public utilities belong in the public right of way, not in residential front yards.
- A basic premise of contract law as well as typically accepted municipal practice is that in order to reach agreement on an issue of contention such as the transfer of property rights, there must be "consideration".
- Consideration may take many forms, most commonly in the form of direct remuneration, but clearly, none has been offered up in this case. If our private property is to be given over for long-term permanent public use in light of alternative solutions to the several short-term challenges of the construction, the public needs to stand responsible to consider us for it.

Comments:

- Impacts to trees at roadway.

Responses:

- It is recognized that there are many beautiful "legacy" trees along the road. Some dating to before the Town of Porter existed, but many seventy feet tall and seventy years old or more.
- The proposed design with pipeline easements located within our properties will impact many of those trees. Several have already been identified on the preliminary plan as needing to be removed. As of this writing, the exact amount remains unknown as several requests for copies of the plans have gone denied. Many others could be lost as a result of the disruptive close-by construction work but are not identifiable at present.

- For every tree identified to be removed and for those lost during the construction, the offer of replacement includes the choice of a 4" (caliper) crabapple, fir, or maple tree, two for one.
- Replacement trees are not required to be placed where the existing trees have been removed, but can be located anywhere within the property. The unwanted effect on the beauty of our roadway could be significant.
- Clarification is needed if those replacement trees are to be planted by the contractor or delivered with a wrapped root ball. It is currently understood that if the new tree(s) go in locations where a tree was removed, the contractor will plant them. If located elsewhere, will the property owner be responsible for the work?
- For any tree that survives the construction, but unknowingly received root damage due the digging operations causing it to die, there is no consideration. Costs of any required removal, replacement, damage, etc. are not covered. The risks will be borne by the property owners.
- Taking a good look at the Town of Porter logo, (or seal), it can be seen that it contains a large green tree. Apparently the town fathers valued these stately trees as much then as we do today.

Comments:

- Impacts to landscaping and other existing improvements.

Responses:

- Driveways that are cut through, if asphalt, will be repaired, (patched), with asphalt. Concrete driveways that are cut through will also be repaired, (patched), with asphalt, not concrete.
- Lawns that are destroyed will receive hydro seed treatment at some future point in time after construction completion and appropriate seasonal weather (growing) conditions. They will remain in the condition they are left in until then.
- The following list of items is subject to further clarification as they were not specifically or clearly addressed during the meeting.
 - No mention was made regarding trench backfill compaction or future subsidence that could result in unsightly lanes through the lawns long after construction completion.
 - Landscaping that is destroyed, such as small yard trees, hedges, bushes, plantings, flowers, etc., will not be replaced.
 - Yard structures, such as walls, fences, decorative pavements, planters, lamp posts, tract monument signage, etc. that are destroyed will not be replaced.

Comments:

- Project requires submittal and approval prior to construction

Responses:

- What is the lead agency for the project? i.e.: Who's in charge and who established the design criteria that elected to use easements in order to place the water line in private property?
- Submittal and approval by whom?
 - Highway Department
 - Route 18F is a NY State highway, but is maintained by Niagara County. Who signs off on improvements, State or County?
 - Health Department
 - Water District
 - Town of Porter
- Recognizing that progress on the design work is progressing without the benefit of formal public input at this time; (we are informed that it is at approximately 60% complete), what, if any timelines have been established relating to addressing public comment vs. Agency approval? I.E.: Are we to sit by and wait while the project steams ahead to 95 or 100% before any meaningful action is taken to address or respond to public concerns and possible opposition?

Comments:

- Potential impacts to future improvements within the easements.

Responses:

- Typically any permanent property improvements, (walls, pavements, fences, light posts, vertical landscaping) within the easements would be either prohibited outright based upon Agency review, or allowed subject to potential future removal, relocation, or demolition should the water line require maintenance for any reason and the improvement impede access to it.
- The long term effects of this will be to create a “zone” of unimproved property within the confines of the easements along an extensive stretch of Lower River Road; similar to what currently exists within the Right of Way.
- Further, it was stated that only the new water line will be installed in the easements. That statement is accepted at face value, but only for today with no future guarantees. No one can predict what new and currently unanticipated situations might arise in the future. Changes in politics and local government, public utility company needs, future technologies such as fiber optics, etc., could well cause the easements to be subject to further use when some authority elects to utilize them for reasons similar to those being put forward today.

Summary:

- The earliest mention of the road can be found in a Holland Land Abstract of Title where a Warranty Deed of 1855 describes lands bounded on the west by Niagara Road. It must be assumed that as of that early date there were no public utilities in the road.
- A Right of Way instrument was granted to Iroquois Gas Corp dated November 5, 1965, allowing construction of an underground gas pipeline within the existing R.O.W.
- Lower River Road was reconstructed in or around 1995. It is uncertain which, if any, underground utilities were installed, modified, or abandoned at that time.
- The existing underground utilities, all except for Gas, are located within the Right of Way:
 - Gas, (unknown size and type of pipe), well within the tree line.
 - Abandoned 4” Water
 - 12” Water, Ductile Iron Pipe
 - Sanitary Sewer (unknown size and type of pipe)
 - Storm Sewer (unknown sizes and type of pipe)
- It is assumed that none of these utilities required easements, being located within the R.O.W., and that the legal criteria for public works installations are the same or similar today as then.
- The conditions of the roadway are very poor and progressively worsening. No repaving work will be performed until after water line completion, other than selective patching of potholes.
- The existing underground utilities in the R.O.W. are in most cases focused well away from the edge of pavement, allowing ample room for placement of the new water system, contrary to what has been presented.
- Alternatively, and in keeping with the plan for future paving, the work could and likely should be located in the roadway, at the edge of the pavement. The required 36” wide trench would receive clean saw cuts, the pipe trench properly backfilled and compacted, and receive an asphalt patch that could be milled and smoothly paved over in the later operations to eliminate any visible joints.
- The added benefit of avoiding the existing utilities and scrapping any easement requirements has the potential of lowering job costs, reducing complexity and speeding the completion of the work.

Respectfully submitted on April 10, 2023,

Peter Burrows
3681 Lower River Road, Youngstown

Mr. Burrows was present along with his wife Suzanne, also Peter and Serena Grange and Tom and Patty England.

They are not happy about having their lawns being dug up to put in water lines. They do not understand why it cannot be done along the shoulder of the road.

Supervisor Johnston said that the County will not give him an answer as to why the work cannot be done along side the road. The Town does not want to do this to our residents nor do the engineers.

RESULT:	REPORT ISSUED
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10. Report 2023-43

Town Board Comments

Councilman Adamson thanked Town Clerk Kara Hibbard for the fine job she did with the sign that will eventually be installed outside of Porter Town Hall.

Motion to adjourn the meeting was made by Councilman Adamson and seconded by Councilman White at 7:45 PM.

RESULT:	REPORT ISSUED
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