



# Town of Porter

## Town Board Meeting

~ Minutes ~

3265 Creek Road  
Youngstown, NY 14174

[TownofPorter.Net](http://TownofPorter.Net)

Kara Hibbard  
716-745-3730

Monday, March 14, 2022

7:00 PM

Town Hall Auditorium

### I. Call to Order

7:00 PM Meeting called to order on March 14, 2022 at Town Hall Auditorium, 3265 Creek Rd., Youngstown, NY.

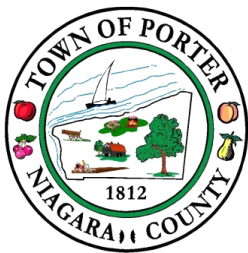
Attendee Name	Organization	Title	Status	Arrived
Jipp Ortiz	Town of Porter	Councilman	Present	
J. Duffy Johnston	Town of Porter	Supervisor	Present	
Jeff Baker	Town of Porter	Deputy Supervisor	Present	
Larry White	Town of Porter	Councilman	Absent	
Tim Adamson	Town of Porter	Councilman	Present	
Kara Hibbard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

### II. Resolutions/Reports

### III. Resolutions

#### 1. Resolution 2022-33

#### Outdoor Fitness Court Resolution



## TOWN OF PORTER

3265 Creek Road ♦ Youngstown, New York 14174 ♦ (716) 745-3730, ext. 3 ♦ fax: (716) 745-9022 ♦

**Town Clerk's office** ♦ [portertownclerk@roadrunner.com](mailto:portertownclerk@roadrunner.com) <<mailto:portertownclerk@roadrunner.com>> ♦

### RESOLUTION TO ADOPT AND ALLOCATE FUNDS FOR AN OUTDOOR

## **FITNESS COURT® AS PART OF THE 2022 NATIONAL FITNESS CAMPAIGN**

At a meeting of the Porter Town Board held on March 14 wherein the following action was taken:

WHEREAS, the Town of Porter has submitted a Grant Application to National Fitness Campaign (NFC) for participation in their 2022 initiative to install and activate outdoor Fitness Courts® in 200 cities and schools across the country, and;

WHEREAS, the Town of Porter will accept a \$30,000 National Grant from our NFC Grant Committee and Statewide Partners, and provide a local match in the amount of \$30,000 to promote and implement a free-to-the-public outdoor Fitness Court®, and;

WHEREAS, the Town of Porter will secure supplemental funding as needed through community sponsors, which will be made available and committed to this program for the purchase of the outdoor Fitness Court®, and;

WHEREAS, the Town of Porter will commit to construction and launch of the outdoor Fitness Court® by the end of the 2022 calendar year, and;

WHEREAS, the Porter Town Board believes the outdoor Fitness Court® is an important wellness ecosystem that supports healthier communities, commits to funding/fundraising to participate in NFC's 2022 Campaign, and will earn local and national recognition as a leader in providing affordable health and wellness.

NOW THEREFORE:

BE IT RESOLVED, that the Porter Town Board will collaborate with NFC to implement the outdoor Fitness Court® and make fitness free to community residents and visitors.

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Town of Porter Supervisor

**Motion was made by Deputy Supervisor Baker and seconded by Councilman Adamson to have Supervisor Johnston sign the resolution and adopt and allocate funds for an outdoor fitness court located at Porter on the Lake.**

**Roll call: Supervisor Johnston, yes; Deputy Supervisor Baker, yes; Councilman Adamson, yes; Councilman Ortiz, yes; Councilman White, absent.**

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jeff Baker, Deputy Supervisor
<b>SECONDER:</b>	Tim Adamson, Councilman
<b>AYES:</b>	Jipp Ortiz, J. Duffy Johnston, Jeff Baker, Tim Adamson
<b>ABSENT:</b>	Larry White

## 2. Resolution 2022-30

### Minutes Approval

Resolution to approve the minutes of the February 14, 2022 Town Board meeting.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jeff Baker, Deputy Supervisor
<b>SECONDER:</b>	Tim Adamson, Councilman
<b>AYES:</b>	Jipp Ortiz, J. Duffy Johnston, Jeff Baker, Tim Adamson
<b>ABSENT:</b>	Larry White

## 3. Resolution 2022-31

### Audited Vouchers

#### TOWN OF PORTER

**WARRANT:** POST AUDIT #2A 2/28/22

<b>FUND</b>	<b>01</b>	2,582.79
<b>FUND</b>	<b>02</b>	39.00
<b>FUND</b>	<b>04</b>	40,487.67
<b>FUND</b>	<b>06</b>	26.50
<b>FUND</b>	<b>07</b>	7.00
<b>FUND</b>	<b>10</b>	0.00
<b>FUND</b>	<b>11</b>	0.00
<b>FUND</b>		

**TOTAL** **43,142.96**

**VOUCHER 'S** 30021 THRU 30032

**WARRANT:**

POST AUDIT #3 - MAR 2022 3/11/22

<b>FUND</b>	<b>01</b>	8,206.81
<b>FUND</b>	<b>02</b>	8,224.53

FUND	04	55,345.07
FUND	06	4,420.92
FUND	07	5,162.91
FUND	10	2,757.16
FUND	11	25,736.09
FUND	20	
FUND	21	
FUND	28	

**TOTAL** **109,853.49**

VOUCHER 'S                      30033                      THRU                      30098

**TOTAL** **152,996.45**

**Resolution to approve the vouchers as audited by the Porter Town Board.**

**RESULT:**                      **ADOPTED [UNANIMOUS]**  
**MOVER:**                      Jeff Baker, Deputy Supervisor  
**SECONDER:**                      Tim Adamson, Councilman  
**AYES:**                      Jipp Ortiz, J. Duffy Johnston, Jeff Baker, Tim Adamson  
**ABSENT:**                      Larry White

**4. Resolution 2022-32**

**Acceptance of Supervisor's Report**

Resolution to accept the Supervisor's report from February 14, 2022.

**RESULT:**                      **ADOPTED [UNANIMOUS]**  
**MOVER:**                      Tim Adamson, Councilman  
**SECONDER:**                      Jeff Baker, Deputy Supervisor  
**AYES:**                      Jipp Ortiz, J. Duffy Johnston, Jeff Baker, Tim Adamson  
**ABSENT:**                      Larry White

**5. Resolution 2022-34**

**Resolution on Creek Lane Rezoning as Petitioned by Larry Weibert to Change Rural Agricultural Zoning to Rural Commercial Zoning.**



# TOWN OF PORTER

3265 Creek Road .youngstown, New York 14174 ext. 7. fax(716) 745-9022.

## Town of Porter Resolution Amending Zoning Map

WHEREAS, an application for a Town of Porter Zoning Map Amendment been made to the Town of Porter Town Board by Larry Weibert owning real property bordered by Creek Lane and the New York State Niagara Scenic Parkway and identified by SBL#'s 45.00-1-20, 45.00-1-22.1 11 and 45.00-1-23.2 comprising approximately 64 acres of land; and

WHEREAS, the Town Board has had an opportunity to review the application submitted by the applicant seeking to re-zone his property from Rural Agricultural Residential to Rural Highway Commercial; and

WHEREAS, the Town Board has reviewed recommendations' by both the Town of Porter Planning Board and the Niagara County Planning Board recommending approval of the proposed map amendment, and

WHEREAS, the Town of Porter has held public hearings and notified neighboring property owners as required by Town Law Section 265, and heard comments both for and against the proposed map amendment with little or no opposition from neighboring residents, and

WHEREAS, the Town Board has carefully and thoroughly reviewed the applicant's application and submissions, the Town of Porter Master Plan, the current use of the property which is essentially commercial use and weighed the need for additional Rural Highway Commercial areas in the Town to provide needed services to residents, and

WHEREAS, the Town Board sought counsel from the Attorney for the Town regarding the standards required for consideration of zoning map amendments pursuant to S265,

NOW, THEREFORE, BE IT RESOLVED by the Town of Porter Town Board that: The Applicants request for a zoning map amendment be approved.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Tim Adamson, Councilman
<b>SECONDER:</b>	Jeff Baker, Deputy Supervisor
<b>AYES:</b>	Jipp Ortiz, J. Duffy Johnston, Jeff Baker, Tim Adamson
<b>ABSENT:</b>	Larry White

## IV. Reports

### 1. Report 2022-33

#### Supervisor's Report

2-17 NC Waterboard meeting,

2-22 zoom with NYS on POTL grant,

2-23 zoom with National fitness campaign for the Fitness court,

3-3 Met with Greenway and Legislator Irene Myers on the Bike trail.

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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### 2. Report 2022-34

#### Bookkeeper

Completed processing all February 2022 Vouchers & Journal Entries.

Prepared Supervisor's Monthly Report for February 2022 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 February and they balanced.

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**3. Report 2022-35****Town Clerk**

Water for the month of February was \$26,609.81

Sewer for February was \$18,361.61

Clerk Fees = \$486.67

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**4. Report 2022-36****Assessor****Monthly Assessor's Report  
February 2022**

- Continued processing completed building permits into RPSV4
- Processed property transfers for Town and Village
- Notified appropriate officials of changes in ownership, mailing addresses, etc
- We continued to accept applications for property tax exemptions. All new and renewal applications were due by March 1, 2022
- Inspected properties in the Town and Village with open building permits
- Continued to complete and value open building permits for the 2022 Roll
- Adjusted property lines, inventory and valuation as a result of subdivision filings
- Lena successfully completed the seminar on the Valuation of High-End and Difficult Homes for recertification credits
- Notified the tax collector and County treasurer of proposed parcels to be deleted and merged for the 2022 assessment roll
- Transmitted quarterly sales data to the NYS Dept of Tax and Finance, Office of Real Property Tax Services
- Received Special Franchise and Telecommunication ceiling values from NYS ORPTS

- Transmitted the proposed level of assessment/equalization rate to NYS ORPTS for their review and approval

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

396 Dansworth Rd	AV \$162,200	Sale Price \$350,000
463 Westwood Ave	AV \$82,410	Sale Price \$169,000

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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5. Report 2022-37

**Building Inspector/Code Enforcement Officer**

- ♦ Reviewed and Issued **Building Permits**; per attached Permit Report; eight (8) permits have been issued in the month of **February**.
- ♦ Received, Inspected, and followed up on **new Complaint/Violations**; per attached Complaint report; eight (8) **New** formal concerns have been processed.
- ♦ Completed seventeen (17) **inspections** for Permits & Complaints.
- ♦ Coordinated/Reviewed **Planning and Zoning Board applications** and/or Documentation.
- ♦ Prepared information and participated in the regular **Planning Board** meeting on **February 3, 2022**.
- ♦ Prepared information and attended the **Zoning Board** meeting on **February 24, 2022**.
- ♦ Completed 2 hours of online **training in February** - "Records & Public Service" + "19NYCRR part1208 Overview"- online Training
- ♦ Attended **Court** for Zoning Compliance cases on February 15, 2021.
- ♦ **Rural Residential business Local Law** - Discussions with both the Planning and Zoning Boards have reached an impasse regarding the proposed zoning amendment. I am a strong proponent for the addition of a Local Law that provides Construction Contractors operating Home-Based Business' and/or



Commercially zoned business, a compliance path to operate in the Town of Porter. **It does not exist in today's version of the Town Code!**

- Please follow this link (<https://ecode360.com/PO2986>) to the Town's online code. Once there simply type in the search box at the top of the page any word to search for in our Code; if you type in "contractor" it returns no results which shows a zoning district in the Town of Porter where a "Contractor" is a permitted Use. Try typing in "Builder," "Electrician," "Plumber," "Mechanical," "Landscaper," "Arborist," "Roofer," etc., ... **A path to legal operation, for any of these types of businesses CANNOT be found IN The Town of Porter Local Laws, except as a Use Variance, which is nearly impossible to acquire.**
- **The Code Enforcement Officer needs the Legislators to correct this omission; ratification of some version of regulation identifying a permitted path for Contractors to exist.**

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**Permit Report - February 2021**

<u>Number</u>	<u>Issue Date</u>	<u>Owner</u>	<u>Permit type</u>	<u>Parcel Location</u>	<u>SBL #</u>
003-22	2/1/2022	Mario Candino	Pole Barn	3406 Dickersonville Rd	47.00-1-57
004-22	2/1/2022	Wendy Serianni	Alteration/Remodel	2625 Lockport Rd	62.04-1-2
005-22	2/3/2022	GLOBAL ACQUISITION	Commercial Alteration/Add	1209 Balmer Rd	60.00-2-29.2/CT2
006-22	2/8/2022	Louis & Lisa Roe	Single Family Dwelling	3315 East Ave	45.00-1-85
007-22	2/9/2022	Michael Kenyon	Alteration/Remodel	2525 Lake Rd	21.18-1-37.1
008-22	2/10/2022	Sarah Mahoney Eric Olofson	Alteration/Remodel	661 Lake Rd	31.20-1-3.1
009-22	2/10/2022	Frank's Commercial & Home Services	Alteration/Remodel	671 Lake Rd	31.20-1-4
010-22	2/10/2022	Chris Renaud Samuel Newell	Permanent Generator	1591 Lake Rd	32.16-1-26.1

**Complaint report - February 2021**

<u>Number</u>	<u>Issue Date</u>	<u>Owner</u>	<u>Complaint type</u>	<u>Parcel Location</u>	<u>SBL #</u>
003-22	02/02/22	Heritage Ransomville Realty LL	Activity without a Permit	3509 Ransomville Rd	62.10-1-5
004-22	02/02/22	Adam Laurich	Activity without a Permit	1881 Lockport Rd	47.04-1-1
005-22	02/03/22	Scott Beahen	Building Code violation	2251 Lockport Rd	61.00-1-49
006-22	02/14/22	James Wilson	Noise nuisance	3130 Park Ave	45.32-1-47
007-22	02/14/22	Robert Costanzo	Encroachment	1617 Lake Rd	33.13-1-2
008-22	02/22/22	Jane Richardson	Junk Vehicles	3529 East Ave	59.00-2-5
009-22	02/23/22	Shelley DeMaison	Unsafe Building	1827 Balmer Rd	61.00-1-28

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**6. Report 2022-38****Highway****HIGHWAY**

1. PLOWED AND SALTED 17 TIMES.
2. ORDERED 600 TONS OF SALT.
3. REPAIRED A FEW BAD RUTS FROM PLOW WITH GRADALL.
4. FILLED IN POTHOLES WITH PATCH.
5. RAKED IN AND PICKED UP DIRT ON SIDEWALKS.
6. REPAIRED TRUCK #11 OIL PAN LEAK.
7. REPLACED PLOW BLADES AND WING BLADES.
8. I WENT TO TOWN OF CARLTON WITH HIGHWAY ASSOCIATION TO MEET WITH THE SENATORS FOR MONIES ON CHIPS FOR PAVING BRIDGE AND CULVERTS REPLACEMENTS.

**WATER AND SEWER**

1. COMPLETED WATER SAMPLES FOR THE QUARTER.
2. COMPLETED WATER METER READINGS FOR THE QUARTER.
3. RE-CONCRETED SEWER MANHOLES THAT WERE BROKEN.
4. HAD CUMMINGS REPAIR RADIATOR AT SWAIN RD GENERATER (IT WAS LEAKING).
5. SERVICED SEWER LIFT STATIONS FOR THE MONTH.

**DRAINAGE**

1. STILL CAN'T GET TO CREEKS TO CLEAN DEBRIS.

Superintendent Burmaster said that he has a meeting with Mark from Quackenbush regarding the lift stations at the Lift Station.

Deputy Supervisor Baker asked Dave about what was going on with the big pile of woodchips on Balmer road and Dave said the chips have been there for a while.

Attorney Dowd said that the Town can sell them once they have been deemed surplus material. The entity will have to use their own vehicle to haul the chips.

**Motion was made by Deputy Supervisor Baker and seconded by Councilman Ortiz to declare the wood chips surplus material.**

**Roll call: Supervisor Johnston, yes; Deputy Supervisor Baker, yes; Councilman Adamson, yes; Councilman Ortiz, yes; Councilman White, absent.**

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**7. Report 2022-39****Recreation**

- Story Hour continues at the Youngstown Library on Tuesdays and at the Ransomville Library on Wednesdays. The weekly program has sessions both days at 9:30am and 11:00am.
- Yoga continues at the Cora Gushee Room in the Youngstown Village Center. The schedule is:
  - Tuesdays at 4:30pm - Chair Yoga
  - Tuesdays at 6:30pm - Floor Yoga
  - Wednesdays at 6:30pm - Floor Yoga
  - Fridays at 9:30am - Chair Yoga

- The Summer Recreation Program will be held again this year at the Ransomville Free Methodist Church. The program will run from July 5<sup>th</sup> - August 11<sup>th</sup>.
- Our next meeting is Monday, April 4, 2022 at 6:00pm at Town Hall.

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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## 8. Report 2022-40

### Calendar of Events

3/24/22	-	Zoning Board monthly meeting at 7:00 PM
4/4/22	-	Recreation monthly meeting at 6:00 PM
4/7/22	-	Planning Board monthly meeting at 7:00 PM
4/11/22	-	Town Board monthly meeting at 7:00 PM

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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## 9. Report 2022-41

### Public Comments

Mr. Shears asked the Town Board how many people were around when the sewer system was put in? He wanted to know why when the sewer system was put in, they cut across the street and only came down one side instead of proceeding all the way.

Deputy Supervisor Baker responded by saying that "can I tell you for a fact? Probably not. But can I tell you from a financial standpoint, probably from the most cost effective way to continue this.

Attorney Dowd said he was the attorney when the sewer lines were put in and when the Town engineers did the map plan and report they had a geographic area that covered Lakeshore 1 and 2. When they did it, any parcel that had a house on it would have to pay \$300 or \$400 a year if they had an existing house on it. So for example, he had to pay \$250 even though he wasn't going to use the system. If you had a vacant lot anywhere up or down Creek rd., it was \$50. You paid more because you had to pay for part of the debt service. So for instance for Clark's house, the Town engineer's determined that it would be more cost effective to push it under the road for Gatehouse's house. When they did a map plan report, it showed what the district was where people had to participate. If you had a house there, then you paid the full \$250 and they extended it that far.

Mr. Shears wanted to know why it was run parallel and then stopped at his house and not to the end of the road.

Attorney Dowd stated that they ran parallel to the brick house on the west side of the road and they

stopped it there. When Mr. Shears came to the Town and wanted it extended, he was present with the Town Board and said "Mr. Shears has this big parcel which he pays \$50 for but the sewer line was stopped before that lot and you were entitled to have service at your lot. The Town spend about \$15,000 dollars and ran the line up to the lot that you ultimately sold.

Mr. Shears feels that the sewer district was made to come down both sides of the road. Deputy Supervisor Baker said that it was not made that way.

Attorney Dowd said that the district does encompass that parcel but they only extended the lines to where there were houses.

Supervisor Johnston said that Mr. Shears came to see him at the Town and he wanted the sewer line extended to the corner.

Mr. Shears said that the sewer line went in in 2003 - 2004 and he bought the property in 2010. He always wanted the prints. Why didn't they just run parallel? Why did they stop on this side of the road and cut across to the other side and then tell him that he's a developer? He worked 40 years as a machinist. He is not a developer or a contractor. He's built a few houses and now the Town wants to slam him with this bill if he wants to have the sewer. "There is pipe on all vacant land but when it came to him, they jumped across the road". He feels it's not right and he should not have to pay for this.

Supervisor Johnston stated that he did a lot of home work and spend some hours on this and there was other options like putting in septic systems.

Councilman Adamson explained that he lives in the Village of Youngstown and he put 5 houses in and the sewer line that was on church st. ended before his house. He went to the Village and asked to have the sewer main extended for him and the Village said "that's not our policy". He was told that he was a developer too. He did get the line extended but he had to pay for it.

Attorney Dowd said there is a map plan and report that he is welcome to have, it will show where the lines are. It is something that would have been submitted prior to this thing going out to the public.

Lena explained that they looked in to the Lake Shore Sewer District extensively when we were trying to get the State to pay for their portion that they didn't pay us at Four Mile Creek State Park so when the Lake Shore Sewer District was layed, so they did Phase 1 and 2 which were along the Lake and Phase 3 came down Creek rd. it was originally going to go all the way down creek rd. and turn and come up Lockport rd., it did not come down Mr' Shears side of Creek rd., it stopped because of costs, so the project as it was layed out became Phase 3. It did not come down Creek rd., and turn the corner on Lockport rd. so the project as it was layed cost x number of dollars which was in the final plan, so they took that cost and distributed it over the number of parcels that were deemed benefiting from that and those parcels that were included in the lot that the person owned before you didn't have a \$50 charge because it was vacant. That parcel then when they extended the line down to the corner, the lot did have a \$50 charge because it benefited that parcel then (when they extended the line down to the corner) they brought that line down because it didn't quite reach the parcel that was originally included in the district. Once that split came off, the remainder of what you have technically still benefits from the district but not through the costs as they were layed. So if you wanted sewer, you would have to pay to extend the line or go under the street and connect and pay a tap in charge. It would be like a tap in charge because of the total capital charge of the project was already distributed over the parcels that benefited at the time the line was put in. Those are fixed now and you can't change what's done and it goes for the next 30 years at \$250 per parcel, \$50 per vacant parcel, and then there are 5 parcels that are so small, they pay \$5. Four Mile Creek has 30 places and they pay \$750 per year.

You do not have to hook up to the sewer if you sell the property because you are not in the district according to Attorney Dowd.

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Clifford Truesdell asked why the fire hydrants get buried by the Town all the time and asked if the fire hydrants can be moved to the other side of the road?

Superintendent Burmaster responded by saying that they try to stay on top of things and get them unburied. There is no way that they will be moved from one side to another.

Clifford thanked the highway dept. for the help that they gave him on Lutts road with the ditches.

He also asked about the deer crossing signs and Dave told him that he did talk with somebody from the State and they are going to be put up.

**Motion was made to adjourn was made by Deputy Supervisor Baker and seconded by Councilman Ortiz at 7:50 PM**

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**10. Report 2022-42**

**Town Board Comments**

report

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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