



# Town of Porter

## Town Board Meeting

~ Minutes ~

3265 Creek Road  
Youngstown, NY 14174  
[TownofPorter.Net](http://TownofPorter.Net)

Barb Dubell  
716-745-3730

Monday, September 12, 2016

7:00 PM

Town Hall Auditorium

### I. Call to Order

7:00 PM Meeting called to order on September 12, 2016 at Town Hall Auditorium, 3265 Creek Rd., Youngstown, NY.

Attendee Name	Organization	Title	Status	Arrived
Mert Wiepert	Town of Porter	Supervisor	Present	
Larry White	Town of Porter	Deputy Supervisor	Present	
Thomas Baia	Town of Porter	Councilman	Present	
Jeff Baker	Town of Porter	Councilman	Present	
Joe Fleckenstein	Town of Porter	Councilman	Present	
Barb Dubell	Town of Porter	Town Clerk	Present	
Kara Hibbard	Town of Porter	Deputy Town Clerk	Present	
Scott Hillman	Town of Porter	Highway Superintendent	Present	
Mike Dowd	Town of Porter	Attorney	Present	
Norm Ault	Town of Porter	Bookkeeper	Remote	
Susan Driscoll	Town of Porter	Assessor	Present	
Roy Rogers	Town of Porter	Code Enforcement Officer	Absent	
Dave Britton	Town of Porter	Engineer	Absent	

### II. Resolutions/Reports

#### 1. Resolution 2016-81

##### Minutes Approval

Resolution to approve the minutes of the August 8, 2016 work session and regular meeting of the Porter Town Board.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Thomas Baia, Councilman
<b>SECONDER:</b>	Larry White, Deputy Supervisor
<b>AYES:</b>	Wiepert, White, Baia, Baker, Fleckenstein

#### 2. Resolution 2016-82

##### Audited Vouchers

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

**TOWN OF PORTER**

**WARRANT: POST AUDIT - AUGUST, 2016 8/31/16**

FUND	01	15,424.59
FUND	02	68.63
FUND	04	5,762.11
FUND	06	1,923.60
FUND	07	1,696.56
FUND	28	
FUND	36	
<b>TOTAL</b>		<b><u>24,875.49</u></b>

**VOUCHER 'S 22638 THRU 22665**

**WARRANT: # 9 SEPTEMBER, 2016 9/12/16**

FUND	01	45,320.00
FUND	02	44,248.00
FUND	04	7,993.52
FUND	06	15,835.33
FUND	07	758.36
FUND	10	770.56
FUND	12	300.00
FUND	35	
<b>TOTAL</b>		<b><u>115,225.77</u></b>

**VOUCHER 'S 22666 THRU 22755**

**TOTAL 140,101.26**

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry White, Deputy Supervisor
<b>SECONDER:</b>	Joe Fleckenstein, Councilman
<b>AYES:</b>	Wiepert, White, Baia, Baker, Fleckenstein

### 3. Report 2016-158

#### Town Clerk

Water \$30,194.50

Sewer \$21,623.81

Clerks Fees \$ 1,129.27

Due to the lack of public response on the extended hours, the Town Clerks office will no longer be open on Tuesday afternoon from 4:00 to 6:00 PM.

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<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**4. Report 2016-178****Supervisor's Report**

Supervisor's Monthly Report for August, 2016 was distributed to all Town Board members.

Resolution to accept the Supervisor's Monthly Report for August, 2016.

July Sales Tax: \$105,027.98. The Town is down \$1,227.28 from July, 2015.

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<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**5. Resolution 2016-84****Supervisor's Report**

Resolution to accept the August 2016, Supervisor's Report

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jeff Baker, Councilman
<b>SECONDER:</b>	Larry White, Deputy Supervisor
<b>AYES:</b>	Wiepert, White, Baia, Baker, Fleckenstein

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**6. Report 2016-159****Bookkeeper**

Bookkeeper's            Monthly Report - July, 2016

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Completed processing all August, 2016 Vouchers & Journal Entries.

Prepared Supervisor's Monthly Report for August, 2016, and distributed it to the Supervisor & Town Board members.

Completed bi-weekly & monthly payrolls.

Completed check registers for all check payments.

Continued working on 2017 Budget. Tentative budget will be completed and filed with the Town Clerk by Friday, September 30, 2016.

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Councilman Fleckenstein questioned Bookkeeper Ault about the recycling and garbage disposal shown on the website. The website has 2013 on it, shouldn't 2016 be on there?

Ault: You sure it's not on there someplace?

Fleckenstein: I didn't find it. Why isn't that being changed every year?

Ault: I thought it was. I'll have to look to see. I will make sure it's changed.

Fleckenstein: Alright.

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**7. Resolution 2016-88**

**Key Bank**

Resolution authorizing Key Bank as the official bank for the Town of Porter.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry White, Deputy Supervisor
<b>SECONDER:</b>	Thomas Baia, Councilman
<b>AYES:</b>	Wiepert, White, Baia, Baker, Fleckenstein

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**8. Report 2016-160**

**Recreation**

**RE: August Recreation Report**

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- Our Summer Recreation ended for the children on Thursday, August 11<sup>th</sup>. There were approximately 350 children registered. It was another very successful program.
- The next Saturday Kids' Karate Class will be held at the Youngstown Village Center Gym on September 10<sup>th</sup> at 10:00am. The class is normally held on the first Saturday of the month; however, it has been changed in September due to the Labor Day Holiday weekend.

- Story Hour completed their Summer Program this month. They will begin their Fall Program in Youngstown on Tuesday, September 13<sup>th</sup>, and in Ransomville on Wednesday, September 14<sup>th</sup>.
- The next Saturday Story Hour Program will be held on Saturday, October 8<sup>th</sup> at 10:00am at the Ransomville Library.
- Tai Chi continues on Tuesday mornings at 9:30am at Porter on the Lake Park (until the weather changes, usually near the end of September). It will then move to the Youngstown Village Center.
- Yoga continues on Wednesday evenings at 6:30pm in the Cora Gushee Room at the Youngstown Village Center.
- We were notified by Niagara County that we were approved for our 2016 Grant: \$1500 for Story Hour and \$1500 for Recreation. We will complete all necessary paperwork and claim forms to receive this funding.

Our next meeting will be Monday, September 12, 2016 at 7:00pm.

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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## 9. Report 2016-161

### Assessor

#### ASSESSOR'S REPORT

August 2016

- Processed July deed transfers.
- Submitted roll to County for preparation of school tax bills.
- Reviewed sales from 07/01/2015 to 06/30/2016 for 2017 residential assessment ratios and equalization rate; - submitted report to State in Albany.
- Prepared STAR Enhanced renewal letters for 2017 roll.

July sales of note, which will have a negative effect on our LOA going forward:

- 543 Lockport Street, sale price \$165,360. Total assessed value \$110,000.
- 334 Third Street, sale price \$145,000. TAV \$106,300.
- 335 Brookshire Road, sale price \$194,670. TAV \$154,400.
- 1234 Cain Road, sale price \$124,000. TAV \$92,200.

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**10. Report 2016-162****Building Inspector/Code Enforcement Officer****August 2016 TOWN OF PORTER**

No.	Date	Owner	Type	Location	Value	Fee
084-16	8/4	M Shaw	AGP	3570 Creek	2,000	25
085-16	8/10	J Perry	Add	3966 Ranvle	1,000	100
086-16	8/11	V Sirianni	Deck	509 Lake	1,000	25
087-16	8/18	W Shaw	IGP.	3697 Creek	15,000	50
088-16	8/18	T Jacobs	P.B.	2643 New Rd	14,000	50
089-16	8/18	M Naab	Shed	2125 Lake	4,000	25
090-16	8/19	C McNeeley	Gar	3597 East Av	15,000	50
091-19	8/26	J Mies	Add	3877 Creek	130,000	100
092-16	8/26	S Newell	Fence	1591 Lake	6,950	25
093-16	8/29	P Barto	Alt	377 Riverview	4,070	50
094-16	8/30	A Morton	P.B.	2526 Lake	20,000	50
<b>AGP</b> -Above Ground Pool					<b>213,020</b>	<b>550</b>
<b>IGP</b> - In Ground Pool					<b>1,685,020</b>	<b>6,050</b>
<b>P.B.</b> - Poll Barn						

**BUILDING DEPARTMENT REPORT - August 2016**

Building permits issued as per the report

Periodic progress inspections on ongoing construction projects throughout the Town

Prepared materials for and attended the Planning and Zoning meetings

Pursued Zoning code violations and issued the Supervisor 'Complaints Report' for the month of August 2016

Multiple foil requests completed

Contracts for Porter on the Lake pavilions

Met with contractors to evaluate abandoned buildings

Attended Niagara Frontier Building Officials meeting

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**11. Report 2016-163**

<b>Justice Revenue</b>			
<b>JUSTICE FINES 2016</b>	01-1000.2610		
	<b>GROSS REVENUE</b>	<b>DISTRIBUTION</b>	<b>NET REVENUE</b>
<b>JANUARY</b>	3,524.00	(1,229.00)	2,295.00
<b>FEBRUARY</b>	4,429.50	(2,224.50)	2,205.00
<b>MARCH</b>	5,775.50	(3,529.50)	2,246.00
<b>APRIL</b>	2,950.00	(1,325.00)	1,625.00
<b>MAY</b>	3,819.50	(1,934.50)	1,885.00
<b>JUNE</b>	4,988.50	(2,758.50)	2,230.00
<b>JULY</b>	4,866.50	(1,846.50)	3,020.00
<b>AUGUST</b>			0.00
<b>SEPTEMBER</b>			0.00
<b>OCTOBER</b>			0.00
<b>NOVEMBER</b>			0.00
<b>DECEMBER</b>			0.00
	<b>30,353.50</b>	<b>(14,847.50)</b>	<b>15,506.00</b>

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**12. Report 2016-164****Highway**

Department of Public Works  
Monthly report for August 2016

## Highway Department:

1. Completed monthly brush pickup.
2. Completed 4 round of roadside mowing.
3. Provided assistance to the Village of Youngstown with our boom mower.
4. Provided assistance to Niagara County with truck hauling millings from there Upper Mtn. road paving project.
5. Provided assistance with trucks hauling for paving and sealing projects in the towns of Wilson, Newfane and Niagara.

## Drainage Department:

1. Continuing the off road mowing program.

## Water and Sewer Department:

1. Completed monthly meter reading.
2. Completed repairs to a water service leak on Creek Rd.
3. Completed trimming of all fire hydrants.

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Maria Knack of 3799 Lower River Road is asking for forgiveness of late charges in the amount of \$19.83. She stated that she never got the bill. They have never been late in the past.

Respectfully submitted,

Scott B. Hillman  
Superintendent of Highways

**Resolution made to forgive the late charge of \$19.83 for Maria Knack, 3799 Lower River Road.**

**Motion made by Councilman Fleckenstein and seconded by Councilman Baker. Motion carried.**

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**13. Resolution 2016-83**

**Snow & Ice Contract Extension**

Hwy Superintendent Hillman: The contract for the county roads and the contract extension for the NYS



DOT are both up for renewal. The county contract has come thru and been approved, so I would suggest to the board that they pass a resolution authorizing the supervisor to sign that contract.

The Clerk received the contract extension from the DOT and I read it, there is something going on with the funding. It's not the same contract that we had previously. I made some inquiries today to see if they sent us the wrong contract or they are trying to pull a switch on us or what they're doing. I would recommend that a resolution to approve the county contract is in order and I would **hold** on the DOT until I get further clarification.

It's a 3 year renewal under the same terms that it has been for the last 6 years. They pay us a minimum up front of 67% of a 5 year average.

Authorize the Supervisor to sign the renewal of the County Snow and Ice Contract.

Authorize the Supervisor to sign the renewal under the condition that the **state reflect the amended renewal of the existing Snow and Ice Contract** between the New York State Transportation Department and the Town of Porter through June 30, 2017.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry White, Deputy Supervisor
<b>SECONDER:</b>	Joe Fleckenstein, Councilman
<b>AYES:</b>	Wiepert, White, Baia, Baker, Fleckenstein

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#### 14. Report 2016-165

##### Engineer

##### General Engineering Support

- Completed Engineering review of proposed Bradley Subdivision
- Hydraulic Model and Tank Evaluation
  - Base map of water system substantially complete
  - Data collection task: Request for flow information from NCWD and Town have been issued; Schedule for completing the hydraulic model and evaluation is targeted for October 21, 2016 (contingent upon receipt of required flow data).

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<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**15. Report 2016-166****Attorney**

Motion to authorize Attorney Dowd to amend Local Law 2014-71 to include Planning Board recommendations.

Motion made by Supervisor Wiepert and seconded by Councilman Baker. Motion carried.

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<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**16. Resolution 2016-85****Public Hearing to Approve Local Law****Resolution to set a public hearing for October 11, 2016.**

We received a notice for the Sheriff's department a few weeks ago stating that the Town of Porter and a number of towns in the state do not have a peace officer local ordinance that will allow them to hire armed sheriff deputies on their own time to work with the town. There was an incident somewhere in the state where an officer used his weapon or hurt himself and the town didn't have the law in place and that deputy was found liable because he wasn't authorized to have the gun by the municipality. So they have indicated that they don't want the sheriff's coming here until that local law is adopted. I am going to ask the board to make a resolution to set a public hearing at the October 11<sup>th</sup> board meeting. I'll have the local law, I'm going to get a model from the state for them to approve. If the judges still want the deputies to come they will have to hire them for those court nights.

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<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry White, Deputy Supervisor
<b>SECONDER:</b>	Joe Fleckenstein, Councilman
<b>AYES:</b>	Wiepert, White, Baia, Baker, Fleckenstein

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**17. Report 2016-167****Grant Writer**

**Grants Status Report: Projects we are currently working on:**

- **Greenway:** The balance of our Greenway funding is \$89,000. This needs to include a sign. Meeting still needs to be set for projects to use up the balance of this money.
- **LWRP:** Semi annual report is being completed and will be sent to DOS by the end of September. Kick Off meeting still needs to set with the new consultant and DOS in August . More details to follow.
- **CFA POL** Kayak Launch Project submitted we should hear by November

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**18. Report 2016-168****Correspondance**

report

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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**19. Report 2016-179****Calendar of Events**

Zoning Board	Thursday, September 22 <sup>nd</sup>	CANCELLED	
Planning Board	Thursday, October 6 <sup>th</sup>	7:00 PM	Porter Town Hall
Town Hall CLOSED	Monday, October 10 <sup>th</sup>	Columbus Day	
Town Board Meeting	Tuesday, October 11 <sup>th</sup>	7:00 PM	Porter Town Hall

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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### III. Public Comments

#### 1. Report 2016-169

##### Public Comments

Wally Nowacki 2053 Lake Road owner of Lakeview Motel:

Mr. Nowacki went over items that were brought up during the last town board meeting by neighbor Mark Lynch, his sister, his brother and husband. Some of the discrepancies were pictures of a guests going to the lake using the golf carts, but it was Mrs. Nowacki. The fleet of golf carts he said were used to transport guests to the lake, they have no battery or any wheels, and they're not movable.

The boat is not storage; it's my own boat that I was working on. Mr. Lynch made a comment that there was some naked woman running around the property. If that lady can jump a 5 foot fence that runs between me and Mr. Lynch, I would like to meet her. There are 100 homes on the lake, you can't stop everybody from walking on the beach, we don't own the beach. We checked who was staying in our place at that time and we had 2 senior citizens that used to live in Youngstown, His sister was in the next cottage and she was 82.

My neighbor is creating problems and making stories up. He wrote a nasty letter to the health department that we were having problems with the septic tank. How would he know that without trespassing on my property? I invited the people from the health department and there were no problems. He complained when I invited friends and their kids to my home, they were playing baseball. There's no need to call saying that you have 14 kids and 8 adults on your property and that's too many. What's wrong with having kids playing baseball on a Sunday afternoon?

When Mr. Lynch and his husband had their 30 year anniversary I was kind enough to cut the lawn, he had over 150 people that were all over my property. I didn't stop them, enjoy yourself. It's fine for Mr. Lynch to have his way but then he wants to control everyone else.

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Mark Lynch, 2089 Lake Road

At the last town board meeting on August 8<sup>th</sup> 2016. My sister Pat and I presented our complaint concerning the establishment of Lakeview Motel's associated business entity, Lakeside Cottages Inc. in our waterfront residential neighborhood.

Quoting from the minutes of that meeting:

Merton your response was "this is the first I've heard of it". Mr. Rogers is quoted "I'll have to do some more investigation this is the first I've heard about it" and Mr. Dowd "my involvement has been limited. I understood there was an issue-maybe last summer"

For the record I have copies of our correspondence with the town regarding Lakeview's illegal commercial activity. The first letter is dated 7-15-2014. You will note there are four letters from our attorney in the last ten months which address the continuing commercial activities conducted by Lakeside Cottages Inc. operating illegally in our waterfront residential zone. All of these letters are addressed to Roy Rogers with copies sent to Mr. Dowd and Mr. Wiepert.

(Mr. Lynch provided the clerk with copies of the correspondence)

Mr. Dowd, you requested that my sister Pat and I along with our attorney meet with you to present our extensive proof that Lakeview Motel is using the properties at 2053/2085 and 2087 as adjunct motel space and are being rented on a short term and less than seasonal basis.

Mr. Dowd is quoted in the minutes from that same August 8<sup>th</sup> meeting "Certainly if this might be transient stuff, hotel guests, it is not permitted."

We have cleared our schedules later this month for a meeting with town officials but frankly wonder what more proof you need when in an article printed in the Niagara Falls Gazette Wednesday August 10<sup>th</sup> Christine Nowacki, CEO of Lakeside Cottages Inc. proclaimed that she and her husband deferred to town officials throughout the process of purchasing and renovating the buildings in question and will continue to do so in the future. She is further quoted in that article that "there are numerous instances in our town where homes are rented out to people for periods short and long"-and "Are we doing something that everybody else is doing on the Lake? Absolutely we are."

Furthermore, her husband Waldemar has made statements threatening neighbors of Lakeside Cottages Inc. not to get into a pissing contest with him because Town Officials have his back.

Their claims that Town officials had full knowledge of their plans to circumvent the law along with their claims that they were advised and assisted by town officials all along the way are very disturbing. For the record we ask are their claims true? What town officials have been advising and assisting them since 2012 as they planned and constructed this commercial establishment illegally in our waterfront residential zone?

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Supervisor Wiepert: If you buy a house on the lake Mr. Dowd and you want to rent it out, there is no law against that is there?

Attorney Dowd: We have various definitions for different types of properties that are rented out. I discussed it with Mr. Coykendell over a year ago, and told him that the Code Enforcement Officers opinion was that he didn't find any problems and there was nothing in our code that prohibits people from renting their houses out for whatever period of time. These single family homes are permitted in that zone. People along the lake, in addition to Mr. Nowacki, rent their houses out for a weekends or a month during the season. We don't have a code provision that restricts or regulates it, so we are going to have to address that. I will be having a meeting with Mr. Coykendall the last week of September.

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Mrs. Nowacki,

You should also know that we are registered with the Red Cross. Not only do we rent our homes out but we are also registered in case there is a situation where someone is burned out of their home and wants to stay in the area while the home is rebuilt. We have a contract where the Red Cross calls us every week or so to see what capacity we have in case of an emergency.

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Fredericka Dean, 2359 Lake Road

I would like clarification on the way the Local Law 2014-71 reads. The problem was that you were afraid rescinding the law would take away the opportunity for people like Mr. Shaw, to protect him from running that small home occupation type business. I don't understand the way the zoning law book reads. It doesn't seem like the way it's written now that it would preclude someone from doing that.

Fleckenstein: No, what we are trying to do, if someone wants to do that on a very small scale, it allows them to do it. It not only protects someone who is already in it, like Mr. Shaw, but say some other person wants to do some repair on a very small scale. What we are looking at is a garage shop.

Dean: But someone could apply for that right now without you making any changes to the law.

Fleckenstein: No, there's no special use permit.

Dean: This one in your home occupation listings, right now in the zoning book it lists several types of occupations that could be considered and it says... but not limited to.... So if someone came to you and said I would like to open a garage repair shop for lawnmowers, chain saws and garden rototillers how would I go about that.

Fleckenstein: There are no guidelines to it in the book right now. In the book now, if you come to planning board and ask permission to do that, and they grant it, they could grant a 50,000 square foot building. The planning board has the desecration of putting any size that they want, let's say it 25% of the home, what if it's a huge home? It could be more than a 1,000 square foot.

Dowd: We wanted to make sure that this type of activity didn't spin out of control and to specifically identify it and then put some restrictions on it. That's what we're trying to do now with the size restrictions.

Fleckenstein: As I said, I want to limit it to horsepower, size, size of building, work outside all of that will limit from what's going on in and out.

Dowd: The building height has to be 10 feet all work has to be done inside the structure. Nothing can be stored or done outside the structure. Those policing tools are there but I'm trying to not just focus on that one spot because the whole town has guys that have pole barns that they like to do things out of. Part of the law of home occupation is that you can't do anything that has loud sounds, obnoxious smells and odors, that kind of stuff.

Dean: I asked last month if the public hearing could be left open until after the county referral is done and we get their input.

Dowd: It's still open now, we can send it to the county and wait for their recommendation to come back the board, if we don't get it back, the board can close the public hearing and say we aren't going to vote until we get the recommendation. But they can still close it.

Fleckenstein: We don't have any plans to close it right now. We're not done discussing it yet.

<b>RESULT:</b>	<b>REPORT ISSUED</b>
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## 2. Report 2016-170

### Town Board Comments

With no further business the regular meeting of the Porter Town Board adjourned at 7:58 PM. Motion to adjourn made by Councilman White and seconded by Councilman Fleckenstein. Motion carried.

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