



Town of Porter

Town Board Meeting

3265 Creek Road
Youngstown, NY 14174
TownofPorter.Net

~ Minutes ~

Barb Dubell
716-745-3730

Monday, August 8, 2016

7:00 PM

Town Hall Auditorium

I. Call to Order

7:00 PM Meeting called to order on August 8, 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	
Chris Amico	Town of Porter	Engineer	Present	
Scott Hillman	Town of Porter	Highway Superintendent	Present	
Roy Rogers	Town of Porter	Code Enforcement Officer	Present	
Norm Ault	Town of Porter	Bookkeeper	Present	
Susan Driscoll	Town of Porter	Assessor	Present	
Bernie Rotella	Town Of Porter	Grant Writer	Present	

II. Reports/Resolutions

1. Report 2016-140

Public Hearing

NOTICE OF PUBLIC HEARING ON A PROPOSED AMENDMENT TO THE TOWN OF PORTER CODE

LEGAL NOTICE IS HEREBY GIVEN that the Town Board of the Town of Porter will hold a public hearing at the Town Hall, 3265 Creek Road, Town of Porter on the 8th day of August, 2016 at 7:00 P.M. to hear all interested parties and citizens for or against the adoption of Local Law #1 of 2016. The proposed local law would amend Chapter 200 "Zoning" Section 35 "Home Occupations" of the Town Code by adding the service and repair of farm and garden equipment to the types of occupations that may be conducted as a Home Occupation. A copy of the proposed text of the law as amended is on file in the Town Clerk's office where it may be examined during normal business hours.

Town of Porter Ordinance, Chapter 200, Section 35 "Home Occupations"

Home occupations shall be subject to the following requirements:

A.

A home occupation shall be conducted entirely within a dwelling or existing accessory structure.

B. The home occupation is clearly incidental and secondary to the principal use of the dwelling. Suitable home occupations include, but are not limited to, office for professional (architect, attorney, accountant, etc.); instructors limited to one or two students at a time; barber limited to one chair; hairdresser limited to two chairs; computer technician, repair and service of farm and garden equipment.

C. The establishment of a home occupation shall not change the principal character or use of the dwelling unit involved.

D.

A maximum of one person other than members of the immediate family residing on the premises may be employed.

E.

A maximum of 25% of the floor area of one story shall be devoted to the home occupation for activities occurring within a dwelling. This requirement shall not apply to family day-care homes and activities occurring within accessory structures.

F. A home occupation shall not require internal or external alteration or invoke construction features not customarily in a dwelling.

G.

No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.

H.

Storage or display of materials, goods, supplies or equipment related to operation of a home occupation shall not be visible to the public from outside the dwelling or any accessory structure.

I.

Mechanical, electrical or other equipment, which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure shall not be used.

J.

A home occupation shall not be permitted which is noxious, offensive or hazardous by reason of hours of operation, vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions.

K.

A home occupation shall not involve the use of advertising signs. Only one non-illuminated nameplate, not to exceed one foot by two feet, shall be allowed. It may display the name of the occupant and/or the name of the home occupation.

Comments from the public:

Bill Dean, 2359 Lake Road: We are against adopting Local Law 2016-55. It appears that this resolution may be in some way connected to the original version of the Sales and Service law 2014-71 that was adopted on June 1, 2014. Planning Board member Peter Jeffery in a letter dated June 1, 2015 to the Town Board claims that no such recommendation to adopt 2014-71 was ever made by the Planning Board. Peter in the same letter claims that the law was adopted solely because of Mr. McCabe's operation on Lake Road and that the law should be rescinded.

On November 11, 2015 during an unprecedented joint meeting with the town board, planning board and zoning board meeting the planning board and zoning board unanimously recommended that the town board rescind 2014-71.

On November 22, 2015 the town board passed resolution 2015-99 to vote to rescind 2014-71 because it was not in harmony with the Town Comprehensive Plan. The town clerk moved forward and completed the public hearing procedure including the required referral and recommendation from the Niagara County Planning Board dated November 21, 2015. The Niagara County Planning Board agreed that 2014-71 would be rescinded because it was not in harmony with the Town Comprehensive Plan.

When the town board inexplicably adopted 2014-71 on June 9, 2014, Mike Dowd commented that this was something that was overlooked when we did the zoning manual changes in 2010. This statement was incorrect. In actuality, the permitted use was intentionally omitted in order to promote agricultural use of the land in the RA Zone and to direct commercial operations into the area of the town set aside for commercial use.

Therefore, I am requesting that the town board move to rescind 2014-71 as part of this resolution and vote no to add the Service of Garden Farm Equipment as a permitted use.

Fredericka Dean, 2359 Lake Road:

Bill has concentrated on the inconsistency of this property use with the comprehensive plan. I have additional concerns.

1. There is no wording in this law change today about rescinding local law 2- 2014. (res. 2014-71) I find this strange since your resolutions regarding making a law change, from both Nov. 2015 and April 2016, were resolutions to rescind. Therefore, we would like assurance that the permitted use table in the zoning book will be updated by removing the sale and service of garden and farm equipment from the RA district as it now appears.
2. I have great concerns regarding the amendment stating the maximum of 25% of one story floor footage will no longer apply to accessory structures. If this law is passed, will there be **NO** size restrictions at all when it comes to accessory structures for home occupations? We have repeatedly been told that the purpose of home occupation requirements is to keep the services rendered small, controlled and discreet. This change in the law does exactly the opposite by removing the size constraints. This possible provision is very disconcerting for us given the history of the battle we have had for the past 19 months over business activity at the McCabe property. Forgive us for being gun-shy, but we can't help but be leery that this is yet another attempt to help provide an avenue for Mr. McCabe to pursue his commercial endeavors. The size elimination provision for accessory structures feeds right into that

possibility. This, of course, is due to the fact that there are 4 oversized buildings on that property, all of which have square footage larger than the residence on the property. We strongly feel

that size provisions for home occupation accessory structures need to be addressed and remain in the zoning code. Mr. Dowd, you made this size change suggestion to the planning board at their meeting on May 16th when they discussed their new law recommendations, so perhaps you could speak to this subject before the end of the public hearing.

- 3. We are expecting that a vote on this law will be delayed by the board until the Niagara County referral procedure regarding local laws and zoning text amendments is followed. This, of course, is the procedure which was

followed in Nov. 2015 when you first resolved to rescind the garden and farm law due to its lack of harmony with the comprehensive plan. I am referring to your resolution #2015-99 dated 11/23/15, when Mr. Dowd ordered that the Town Clerk refer the proposed zoning ordinance amendment to the Niagara County planning board, pursuant to General Municipal Law 239. We were told in no uncertain terms at that meeting that it was the required procedure.....therefore it needs to be followed in this instance also.

- 4. We also would ask that a vote on this law will be delayed until the public has an opportunity to see exactly how these law changes will be reflected in the permitted use table. This is in regards to which districts in the Town of Porter will be allowed to pursue the proposed home occupation and what process will be required to gain home occupation approval. In resolution 2016-55 on 4/11/16, both Councilman Fleckenstein and Attorney Dowd state that the new home occupation use for repair and service of farm and garden equipment would require both a site plan and a special use permit. However, the minutes of various meetings are riddled with conflicting information regarding the process. We would like to see the zoning code resolution that reflects exactly what the requirements will be.
- 5. Lastly, we request that the public hearing remain open until the County referral procedure is completed and the above mentioned zoning code resolutions have been made public in their final form. This will allow an opportunity for any further questions to be answered should any arise.

Thank you

Shelia Mooney 2407 Lake Road: Main concern with all of this, when you say about revising things, have you ever looked at these tractors that the farmers use? They are enormous, I could see them fitting into the structure that is illegally there. The damage, the traffic and everything that would go along with that, I think that should also be included. I hope and pray that all of you will do what you have been elected and appointed to do.

William Sutor, 3321 Creek Road: With this home and garden all I suggest is a maximum gross weight of

1000 pounds. Keith Shaw runs a beautiful business of home and garden equipment. All you have to do is put in this 1000 pounds gross weight. Anything over that you go to an industrial or farm equipment. If your honestly running a home business, 1000 pounds should cover you. Nobody's honda or cub cadet is going to exceed that weight. If your working on things beyond that then you go over to Balmer Road or where ever else it's zoned.

Supervisor Wiepert: We are not going to close the public hearing, we are just going to leave it open.

Attorney Dowd: The Public Hearing is going to be left open, it's going to go to Niagara County for their input and we will wait to hear back of any changes they want to make, we can do that then.

RESULT: REPORT ISSUED

2. Resolution 2016-76

Local Law #1-2016

Resolution to amend Chapter 200 "Zoning" Section 35 "Home Occupations" of the Town Code by adding the service and repair of farm and garden equipment to the types of occupations that may be conducted as a Home Occupation.

RESULT: WITHDRAWN

3. Report 2016-141

Public Hearing

The Town of Porter will hold a Public Hearing on Monday, August 8th, 2016 @ 7:00 PM to hear all interested parties and citizens for or against the adoption of Local Law #2 of 2016. The proposed law would provide regulations related to peddling, soliciting and transient business conducted within the Town. A copy of the proposed text of the law is on file with the Town Clerk's office where it may be examined during normal business hours.

Peddling, Soliciting and Transient Businesses

- § 1 Purpose**
- § 2 Definitions.**
- § 3 Permit or registration required**
- § 4 Exemptions**
- § 5 Requirements for charitable organizations**

- § 6 Hours.
- § 7 Application requirements
- § 8 Investigation of applicant.
- § 9 Fees.
- § 10 Permit regulations.
- § 11 Prohibited acts.
- § 12 Trespassing.
- § 13 Penalties for offenses.
- § 14 Enforcement.
- § 15 Severability.

§ 1 Purpose.

The purpose of this chapter is to promote and protect the health, safety and general welfare of the community, and the preservation and protection of property of the Town of Porter and its residents.

§ 2 Definitions.

The following words and phrases shall have the meanings set forth unless the context of their use clearly indicates otherwise:

APPLICANT

Any person by or for whom an application is made under this chapter.

CHARITABLE ORGANIZATION**A.**

Any benevolent, philanthropic, patriotic, military veterans, not-for-profit, educational or religious association, society or other organization or any other association, society or organization qualified as a tax-exempt organization under Section 501 of the Internal Revenue Code.

B.

Any governmental entity or organization, including, without limitation, a school district, fire district and fire company.

PEDDLER

A person who engages in peddling.

PEDDLING**A.**

Selling or offering for sale, barter or exchange any property or service, either for immediate or future delivery or performance upon any street, road or highway or from house to house in the Town, and including, without limitation, activities commonly known as "hawking."

B.

Delivery or distribution of advertising matter, literature, pamphlets, samples or handbills house to house or on any of the streets, roads or highways or by going from place to place in the Town, but not including the delivery or distribution of newspapers, magazines or political or religious materials.

PERSON

A natural person, corporation, partnership, association, joint venture, society or other organization or association of any kind, whether acting as principal, agent, employer or employee.

PROPERTY

Any goods, wares, merchandise or other article or thing of every kind or nature except newspapers.

SOLICITING**A.**

Seeking, taking or offering contracts or orders for any property for future sale or delivery or performance of any service upon any street, road or highway or from house to house in the Town.

B.

Seeking or taking subscriptions or contributions of money or property, upon any street, road or highway or from house to house in the Town.

SOLICITOR

A person who engages in soliciting.

TOWN

The Town of Porter outside the Village of Youngstown.

TRANSIENT BUSINESS

A retail or wholesale business conducted from a temporary structure or tent, truck, van or trailer, stand, parking lot or vacant parcel of land, in a public right-of-way or in or on any other place in the Town, but not (1) outdoor sales of property or services accessory to a business conducted within a permanent structure on a same premises or (2) the sale of food products raised or produced on the same premises from a temporary or seasonal stand, provided that the principal structure or activities otherwise comply with the zoning and other ordinances of the Town.

§ 3 Permit or registration required.**A.**

No person shall engage in peddling, soliciting or a transient business without first obtaining a permit or registering or both as required by this chapter.

B.

No motor vehicle shall be used for peddling or conducting a transient business unless a permit shall first have been obtained, which permit shall at all times be displayed in a conspicuous location that is visible from the outside of the vehicle.

§ 4 Exemptions.

No permit under this chapter shall be required:

A.

By any charitable organization or its agents or employees or veterans licensed pursuant to General Business Law § 32.

B.

By any business, service or activity licensed under any other ordinance or law of the Town of Porter.

C.

For lawn cutting, leaf raking and snow shoveling services for residential property.

D.

By political parties and candidates for public office.

E.

For peddlers and solicitors not over sixteen (16) years old.

§ 5 Requirements for charitable organizations.

No charitable organization shall engage in soliciting before it files with the Town Clerk a list of the names, addresses and dates of birth of the persons who will conduct the activity on its behalf and a statement of the time period during which the solicitations shall occur. The Clerk shall provide a copy of the list to the Police Department. No person shall engage in soliciting on behalf of a charitable organization until this information has been provided to the Town Clerk.

§ 6 Hours.

No peddling, soliciting or transient business activities, whether or not exempt from the permit requirements of this chapter, shall be conducted before 9:00 a.m. or after 8:00 p.m.

§ 7 Application requirements.

A.

An application for a permit under this chapter shall contain the following:

(1)

The name, home address and local address, if any, of the applicant.

(2)

A physical description of the applicant, giving date of birth, height, weight and color of hair and eyes. A photograph may be required.

(3)

The name and address of the person, if any, by whom the applicant is employed and for whom or through whom orders are to be solicited, cleared, filled or delivered.

(4)

A description of the business or activity in which the applicant intends to engage and of the nature of any property or services involved.

(5)

For peddlers or solicitors, a list of crimes for which the applicant has been arrested or convicted, including the dates and places.

(6)

A statement as to the period of time during which the applicant intends to engage in the business or activity regulated under this chapter.

(7)

Proof that the applicant, or his or her employer or principal, is registered for sales tax purposes, if the business or activity to be conducted is subject to sales or use tax.

(8)

A description of any motor vehicle that will be used for pickup or delivery of property or for the purpose of bringing any such property into the Town for peddling, soliciting or transient business purposes, or from which a transient business will be conducted, to include the name of manufacturer, year, type of vehicle, vehicle identification number, registration plate number, title holder and name of the person other than the title holder to whom the vehicle is registered, if any.

(9)

The location where a transient business is to be conducted.

(10)

Further information required by the Town Clerk or the Police Department.

B.

The application shall be signed by the applicant and sworn to before a notary public or other officer authorized to administer oaths.

C.

If a transient business is to be conducted on private property, the written consent of the property owner, if

other than the applicant, shall be filed with the application or shall be prominently displayed at the transient business site.

§ 8 Investigation of applicant.

A.

For peddling or soliciting permit applications, the Town Clerk shall forward a copy of the application to the Police Department. A copy of any application for a transient business or mobile food vendor shall be forwarded to the Building Department. The Police Department shall, to the extent possible, determine whether or not the applicant has accurately reported convictions and is otherwise a person of good moral character and reputation. The Police and Building Departments shall report the results of their investigations of applications to the Town Clerk within ten (10) business days of the receipt of the copy.

B.

The Police Department shall perform the same investigation and provide the report of the results to the Town Clerk within ten (10) business days of the receipt of a copy of a list filed pursuant to the requirements of §5 of this chapter.

§ 9 Fees.

The following fees shall be paid to the Town Clerk with an application for a permit:

Peddlers Permit \$50.00

Transient Business Permits \$50.00

Permit fees may be amended from time to time by Town Board Resolution

§ 10 Permit regulations.

A.

After receipt of reports from the Police Department and Building Department, when required, the Town Clerk shall issue the permit requested unless the applicant for a peddler's or solicitor's permit has been convicted of a felony at any time or a misdemeanor involving moral turpitude within five (5) years prior to the application, and has not been granted relief from civil disabilities, or otherwise is found not to be a person of good moral character and reputation.

B.

Solicitors', peddlers' or transient business permits issued pursuant to this chapter automatically expire ninety (90) days after issuance.

C.

Permits issued under this chapter shall not be transferable.

D.

A permit issued pursuant to this chapter may be revoked if, following its issuance, the Police Department determines that the applicant was convicted for any crime not reported in the application or is otherwise not a person of good moral character and reputation. A permit may also be revoked for any violation of this chapter committed after its issuance.

E.

A transient business permit shall be limited to a single location. If the location is in a public right-of-way, it must be approved by the state, county or town authority having jurisdiction. If the location is not in a public right-of-way, it must be approved by the Building Department.

§ 11 Prohibited acts.

A.

No person shall use private real property for any activity requiring a permit under this chapter without the written consent of the owner, and in compliance with § 7C.

B.

No person regulated by this Local Law shall hawk or cry property, offers, contracts or services upon any location in the Town, or use any loudspeaker, horn or other sound making device.

C.

No person holding a permit under this chapter shall engage in any activity regulated hereunder unless he or she has the permit on his or her person.

§ 12 Trespassing.**A.**

The owner or occupant of a residential building may post a notice prohibiting peddlers and solicitors. The notice shall be placed in a conspicuous place adjacent to the entrance door of the building. The letters of the notice shall be at least 1/2 inch in height and shall contain a statement saying in substance that "peddlers or solicitors are prohibited." No person shall engage in any activity regulated by this chapter by attempting to enter a building or ringing a doorbell or knocking on an entrance door to any residence building at which entrance such a notice has been posted.

B.

Any person engaged in an activity regulated under this chapter, whether that person is exempt or not, who has entered upon private property, whether invited or not, shall immediately and peacefully depart therefrom when requested to do so by any occupant.

§ 13 Penalties for offenses.

Any person who violates any provision of this chapter shall be guilty of a violation. Each violation shall be punishable by a fine not to exceed \$250 or by imprisonment for a period not to exceed fifteen (15) days, or both.

§ 14 Enforcement.

This chapter shall be enforced by the Building Department Code Enforcement Officer of the Town of Porter.

§ 15 Severability.

The invalidity of any section or provision of this Local Law shall not invalidate any other section or provision of this Local Law.

Supervisor Wiepert: This covers the purpose, definitions, permits, requirements and the application fees. It's quite a lengthy peddler's license. There's a fee involved, they have to come to the Town Clerk to get their permit. There's a police background check of the person applying for the permit. The enforcer is the Building Inspector or sheriff's department.

Councilman Fleckenstein: We do have monetary numbers in here for permits and violations and that will be changed after further review. Right now the peddler's permit is \$50.00 and that number is going to change and be higher.

Councilman Baker: Some towns have a Do Not Call List, you can be registered at the town so that if

there is a solicitor that does have a permit and he shows up at your house, they will be subject to fines.

Attorney Dowd: That needs to be discussed further. This exempts some organizations, getting signatures for petition time, charity organizations.

Supervisor Wiepert: We will leave the Public Hearing open, then we can go back and review it next time.

Attorney Dowd: We will send the new language to the county to get their input.

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

4. Resolution 2016-77

Local Law #2 - 2016

Resolution to adopt Local Law #2-2016 providing regulations related to peddling, soliciting and transient business conducted within the Town.

RESULT:	WITHDRAWN
----------------	------------------

5. Resolution 2016-78

Minutes Approval

Resolution to approve the minutes of the July 11th regular meeting of the Porter Town Board.

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

6. Resolution 2016-79

Audited Vouchers

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

TOWN OF PORTER

WARRANT: POST AUDIT - JULY, 2016 7/29/16

FUND 01	15,330.57
FUND 02	235.34
FUND 04	6,425.67
FUND 06	43,730.47
FUND 07	1,520.41
FUND 28	1,224.00
FUND 36	
TOTAL	68,466.46

VOUCHER 'S 22522 THRU 22550

WARRANT: # 8 AUGUST, 2016 8/8/16

FUND 01	16,046.37
FUND 02	38,233.67
FUND 04	119,492.91
FUND 06	1,246.62
FUND 07	27,132.05
FUND 10	742.88
FUND 28	1,056.76
FUND 35	4,000.00
TOTAL	207,951.26

VOUCHER 'S 22551 THRU 22637

TOTAL 276,417.72

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

7. Report 2016-142

Town Clerk

Water	\$15,899.16
Sewer	\$13,049.60
Clerk Fees	\$ 1,045.14

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

8. Report 2016-143**Supervisor's Report**

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

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

June Sales Tax: \$130,998.88. The Town is up \$3,075.70 from June 2015.

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

9. Resolution 2016-80**Acceptance of Supervisor's Report**

Resolution to accept the Supervisor's report for July, 2016.

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

10. Report 2016-144**Bookkeeper**

Bookkeeper's Monthly Report - July, 2016

Completed processing all July, 2016 Vouchers & Journal Entries.

Prepared Supervisor's Monthly Report for July, 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. Work papers should be distributed by August 15th and Returned by September 9th.

Sent all information on the Handbook to Lisa Hastings.

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

11. Report 2016-145

Recreation

RE: July Recreation Report

- Our Summer Recreation Program is in “full swing” at Stevenson Elementary in Ransomville. There are approximately 350 children registered. The program will conclude for the children on Thursday, August 11th.
- Story Hour continues at the Youngstown Library on Tuesdays and the Ransomville Library on Wednesdays, at 10:00am.
- Tai Chi continues on Tuesday mornings at 9:30am at Porter on the Lake Park.
- Yoga continues on Wednesday evenings at 6:30pm in the Cora Gushee Room at the Youngstown Village Center.
- Our next meeting will be Monday, August 1st, at 7:00pm. Our September meeting will be Monday, September 12, 2016 at 7:00pm.

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

12. Report 2016-146

Assessor

ASSESSOR'S REPORT

July 2016

Processed June deed transfers.

June arm's length sales of note, which will have a negative effect on our LOA going forward:

- 703 Main St, 14174
sale price \$430,000/total assessed value \$241,000
- 460 Church St, 14174

- sale price \$95,000/total assessed value \$64,900
- 396 Dansworth Rd, 14174
sale price \$269,000/total assessed value \$162,600
 - 2505 Lake Rd, 14131
sale price \$196,900/total assessed value \$101,100
 - 1723 Harrison Ln, 14174
Sale price \$93,000/total assessed value \$68,500
 - 908 Lockport Rd, 14174
Sale price \$217,900/total assessed value \$112,600
 - 750 Lockport Rd, 14174
Sale price \$118,000/total assessed value \$89,000
 - 1733 Harrison Ln, 14174
Sale price \$120,000/total assessed value \$89,600
 - 1735 Harrison Ln, 14174
Sale price \$299,900/total assessed value \$158,500

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

13. Report 2016-147

Building Inspector/Code Enforcement Officer

BUILDING DEPARTMENT REPORT - July 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 July 2016

Multiple foil requests completed

Drafted contracts for Porter on the Lake pavilions

Met with Town Engineer to evaluate abandoned buildings

July 2016 TOWN OF PORTER

No.	Date	Owner	Type	Location	Value	Fee
072-16	6/30	F.N. Bank	Signs	2547 Lkpt Rd	6,500	50
073-16	7/1	D. Huckabone	Alt	2435 Lake Rd	10,000	50
074-16	7/5	D. Argona	Fence	983 Lake Rd	2,975	25
075-16	7/5	M. Roberts	Shed	1581 Lkpt Rd	2,000	25
076-15	7/7	M. Mills	P.B.	3701 Ransmv	3,000	50
077-16	7/8	UMH Melrose	P.B.	999 Bakmer	10,000	50
078-16	7/13	T. Augello	Shed	3653 River Rd	3,400	25
079-16	7/19	C. Truesdale	Shed	1355 Lkpt Rd	300	25
080-16	7/21	T. Vance	AGP	2094 Lkpt Rd	2,000	25
082-16	7/29	G. Goodwin	Porch	2425 Lake Rd	0	25
		P.B. Pole Barn		Monthly	40,175	350
		AGP Above Ground Pool		Y.T.D.	1,472,000	5,500

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

14. Report 2016-148

Justice Revenue

JUSTICE FINES 2016

01-1000.2610

	<u>GROSS REVENUE</u>	<u>DISTRIBUTION</u>	<u>NET REVENUE</u>
JANUARY	3,524.00	(1,229.00)	2,295.00
FEBRUARY	4,429.50	(2,224.50)	2,205.00
MARCH	5,775.50	(3,529.50)	2,246.00
APRIL	2,950.00	(1,325.00)	1,625.00
MAY	3,819.50	(1,934.50)	1,885.00
JUNE	4,988.50	(2,758.50)	2,230.00
JULY			0.00
AUGUST			0.00

SEPTEMBER			0.00
OCTOBER			0.00
NOVEMBER			0.00
DECEMBER			0.00
	25,487.00	(13,001.00)	12,486.00

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

15. Report 2016-149

Highway

Highway Department:

1. Completed monthly brush pickup.
2. Completed the resurfacing of Cothran Rd and Calkins Rd with assistance from the Towns of Lewiston, Wheatfield, Wilson, Pendleton, and Cambria. Niagara County and the Villages of Lewiston and Youngstown.
3. Provided assistance with trucks hauling blacktop to paving projects for the Village of Youngstown, Village of Lewiston, Towns of Niagara and Town of Pendleton.
- 4.

Drainage Department:

1. We are continuing the off road mowing program and are making good progress due to the dry weather.

Water and Sewer Department:

1. Completed monthly meter readings.
2. Completed Quarterly Stage 2 DBP water testing.
3. Emergency repairs to the Balmer Road Water Tank have been completed.
4. Completed repairs to 4 fire hydrants.

Respectfully submitted,

Scott B. Hillman

Superintendent of Highways

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

16. Resolution 2016-73

Adjust Water Sewer Billing.

Water Sewer account 10-0587.01 needs to be adjusted \$3,058.10 for sewer charges. The residence was uninhabited when the water pipes ruptured, filling the basement with water. No water went through the sewer and the home owner is asking for relief.

This resolution was tabled until the next board meeting on August 8, 2016.

The town board wants to see a letter from the property owner's insurance company that shows his claim for the damages to his home was denied.

Supervisor Wiepert: The town board thought that he might have homeowners insurance that he would have to submit a document saying that homeowners would not pay for the sewer water bill. He has submitted that, he did not have insurance at that time for lack of non-payment. The water went into the cellar, filled the cellar up, he had the fire company come and pump the cellar out. So it never went thru the sewer meter. He paid one bill for \$1,000. The other bill was \$3,000 after the adjustment the net is \$60.00 of what he is going to owe.

Councilman Baker made a motion to remover the sewer charges only. Councilman Baia seconded the motion.

Roll call vote:

Fleckenstein	Yes
White	Yes
Wiepert	Yes
Baia	Yes
Baker	Yes

Motion carried.

HISTORY:

07/11/16	Board	TABLED
Next: 08/08/16		

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

17. Report 2016-150

Engineer

Engineering Report
August 2016

General Engineering Support

- Received approval from Niagara County Health Department for sewer extension on Creek Road
- DeCarle Site Plan /Drainage Review

Engineer Amico: We requested some water data and information from Scott to continue progress on the water model.

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

18. Report 2016-151

Attorney

The Article 78 proceeding has commenced for the aquaculture facility on Balmer Road, Thomas Fleckenstein. We had a court proceeding on Friday, the charges were dismissed. We expect it will be appealed. They have 30 days from the date the order was signed.

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

19. Report 2016-152

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 July 29th. Kick Off meeting needs to set with the new consultant and DOS in August . More details to follow.
- **CFA POL Kayak Launch Project** submitted (more details at the meeting).

Grant Writer Rotella:

We submitted the kayak launch at POTL. It came in about 50% of what we thought it might be. At the last meeting we passed a resolution for up to \$150,000. The total project cost is \$64,000, so if we get it that will be a total match of \$32,000. That's an ADA compliant kayak launch. So that was some good news.

NYS Archives we submitted a grant for an ECMS system which was denied. I checked into it further, there was \$500,000 worth of funding for the whole state. That means they funded 8 applications statewide. In the past we have gotten 2. Funding has really dwindled a lot.

Checked with Scott Hillman for the transfer of those traffic beacons, I need to report back to DOT when the transfer has been made and then I'll follow up with Pendleton when they're installed.

RESULT: REPORT ISSUED

20. Report 2016-153

Correspondance

report

RESULT: REPORT ISSUED

21. Report 2016-154

Calendar of Events

Zoning Board	August 25, 2016	Town Hall - 7:00 PM
Planning Board	September 1, 2016	Town Hall - 7:00 PM
Town Hall Closed	September 5, 2016	Labor Day
Labor Day Festival	September 5, 2016	Porter-on-the-Lake 3 PM - 9 PM Fire Works
Town Board	September 12, 2016	Town Hall - 7:00 PM

REDCOATS IN YOUR BACKYARD

Ransomville American Legion will be sponsoring this outdoor event on August 11, 2016 at 7:00 PM. There will be horse riders thru town hollering the redcoats are coming.

RESULT: REPORT ISSUED

22. Report 2016-156

Public Comments

Mark Lynch, 2089 Lake Road: I have reason for concern because Lakeview Motel purchased 2087 and 2085 Lake Road and immediately made them extensions of Lakeview Motel commercial business. During the 2013 summer season we watched the homes rented out to as many as 20 people at a time. We have had to place several calls to 911 in response to the late night intrusions into the peace and safety of our neighborhood. I expressed my concern to Mr. Wiepert on July 7, 2014, he stated that the zoning laws were only as good as those in charge of enforcing them. Yet we find ourselves in 2016 half way thru the fourth season and still no enforcement.

Mr. Lynch provided several pictures that showed the motel and yards. He continued that the illegal operation goes from April thru fall with anglers, sports teams, reunions and weekenders. They're parking is accompanied by noise, bonfires, rowdiness and occasional nude swimmers. All with no regard to the disruption of a residential neighborhood. The website promises access to the waterfront via a fleet of golf carts, crossing Lake Road thru the cottage properties and down a path to the lake. The path is 20 feet outside my dining room window.

Lakeview Motel and cottages has destroyed the serenity of a residential zoned neighborhood. We ask you to fulfill your legal responsibility and enforce the existing waterfront residential zoning codes.

Patricia Lynch, 2091 Lake Road: A member of a family, who through 3 generations and for over 60 years have been residents, landowners and taxpayers in Porter. For 6 1/2 years I co-chaired committees that created the town's Comprehensive Plan and Zoning laws. During that time we conducted all- day workshops where residents gave up their free time, gathered here, to provide input - telling us how they wanted their land used and protected by these land use regulations. To fund the effort, the Town accepted hundreds of thousands of dollars in state taxpayer grant money from the Department of State and matched that with Porter residents' tax dollars.

I am here to tell you that over the last 3 1/2 years we have witnessed a blatant violation of those land use regulations, with the creation & operation of Lakeside Cottages, Inc. in my neighborhood which is a highly protected zone- Waterfront Residential- no commercial development allowed. And during that time we have talked to and written to the Town Supervisor and Zoning Enforcement Officer concerning this commercial operation. When no satisfactory response was given, we were forced to hire a lawyer to write and speak to them. Our FOIL request had to rise to the appeal level before we received documents regarding permits and certifications for the major construction at these residences.

In the absence of any satisfactory response to us or our lawyer and as a last resort before initiating an Article 78 proceeding against the town (with all the additional expense that it will bring to Porter taxpayers), we are here at the advice of the Chair of the Town Zoning Board to call your attention to this one last time.

As with all residents of the town of Porter, we have the right to full and fair enforcement of the land use regulations. Be advised that we intend to vigorously pursue these rights. We ask you, simply and emphatically, to fulfill your legal responsibility and enforce the existing Waterfront Residential Zoning Codes. Thank you.

Attorney Dowd: My involvement has been limited. I spoke to Mr. Rogers about it. The explanation I got was that the people who rent it were long term, to single occupants. I understood it to be 3 or 4 months at a clip that the same person would be there. I understood that there was an issue, maybe it was last summer, but what I was told is that there was no violation because these people were living there for a long term period. Certainly if this might be transient stuff, the hotel guests, it's not permitted. That has to be investigated.

Mr. Rogers: I found no violations, these are single family homes. Building permits were issued as single family homes, there are no prohibitions to rent single family homes to summer guests. This happens all the time.

Councilman Fleckenstein: Why is it after 4 years, and lawyer letters, this is the first we've ever heard of it. Why has the town board not know anything about this? If a letter to a lawyer has been sent here why don't we know about it? I apologize to you if it has gone on this long.

Supervisor Wiepert: It went thru the building inspector and the town attorney.

Councilman Fleckenstein: It should have been brought to us so we were aware of it.

Pat Lynch: Our attorney corrected the misconception that Mr. Rogers had about it being seasonal in a letter to him. So there is no excuse for not knowing that this was short term rentals and a commercial business.

Mr. Rogers: I'll have to do some more investigation, this is the first I've heard of it. These were existing single family homes that they were remodeling.

Mark Lynch: At 2053 they have done the same thing, they have done massive renovations; no permits were issued according to your records. Not a single permit has been issued on 2053 and that construction has gone on for at least 4 months. Now they are being rented out for the first time this summer.

Mr. Rogers: There was a building permit issued after we discovered it was there.

Attorney Dowd: We need to have a meeting. My understanding was that these were long term rentals to individuals. The last I heard was that this was the position the building inspector took. That was the end of it. Now I understand that all of this is going on, we need to address it. If what's been happening here is a violation, we will pursue it.

Vicky Berman, 2375 Lake Road: Someone came to my place with the idea of purchasing. He came into my driveway and looked across the road at the McCabe factory and he stood there, just looking and shaking his head. I walked out and introduced myself, he said "This is the thing that I've been reading about in the newspaper? This is what everybody is talking about? Why didn't you tell me you lived across the road from that?" He said "You people have an albatross on your back. Nobody's going to sell anything here."

Bill Dean: During the June 20 Sales and Service Site plan hearing, Mike McCabe's attorney and Peter Jeffery got into a conversation about 3 outstanding variances associated with the building codes on the property. I've been trying to get some answers as to where these variances are headed and whether or not they are being addressed. I talked to Roy last week, he said he was going to look at it. I wondered if you guys had looked at it or if Roy could update us on what is going on?

Mr. Rogers: You can't call me; you have to do it here? I haven't done anything with it, I've been to damn busy.

Bill Dean: Guess that's my answer. In my opinion, Roy works for you folks and a situation like this I think it's important that in order to establish confidence in our local government and our local zoning ordinance

process, that the building inspector do a better job addressing these problems. So maybe you guys could follow-up on that and we could see what's going on.

Supervisor Wiepert: First I've heard about it.

Wally Nowacki: The only thing I would like to point out to everybody here, is you go on a website Home Away From Home Holiday homes, there are over 380 homes listed in the Town of Porter, daily, weekly, monthly. So please have a consideration and look at that. Before you get jumpy, go on the website.

Jim Lynch: My sister, Mary Carol, loves her driveway (Harrison Lane) and so do the neighbors. So 'thank you to the town".

RESULT: REPORT ISSUED

23. Report 2016-155

Town Board Comments

Councilman Baia: Commented that Sunday morning Highway Superintendent Hillman, was at POTL cleaning the bathrooms. That's what you call dedication.

Motion to adjourn the regular meeting of the Town of Porter made by Councilman White and seconded by Councilman Flecksenstein. Meet ended 8:03 PM.

RESULT: REPORT ISSUED