

TOWN BOARD REGULAR MEETING
OCTOBER 12, 2016

A Regular Meeting of the Town Board of the Town of Somerset, County of Niagara and the State of New York was held at the Town Hall, 8700 Haight Road, Barker, New York on the 12th day of October, 2016.

Present: Daniel M. Engert ----- Supervisor
Randall J. Wayner ----- Councilman
Gary R. Alt ----- Councilman
Robin R. Jansen ----- Councilwoman
Jeffrey M. Dewart ----- Councilman
Tracy L. Carmer----- Town Clerk
Michael M. Flint ----- Supt. of Highways
Melvin H. Denny ----- Supt of Water/Sewer/Grounds
Mindy Austin ----- Confidential Asst. to the Supervisor
David Haylett----- Attorney
Brian Sibiga ----- Engineer

Attended by: approximately 30 residents and students

Supervisor Engert called the meeting to order at 6:30PM with the Pledge to the Flag and a prayer for guidance.

RESOLUTION 124-2016

APPROVAL OF THE MINUTES

On a motion of Councilman Alt, seconded by Councilman Wayner, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
 Nays 0

Resolved the minutes of the previous meeting on September 14, 2016 are approved as submitted.

RESOLUTION 125-2016

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

On a motion of Councilwoman Jansen, seconded by Councilman Dewart, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
 Nays 0

Resolved the Supervisor's Monthly report be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer
Dog Control
Police Report

RESOLUTION 126-2016

SEWER SYSTEM IMPROVEMENT PHASE 2

Supervisor Engert stated this part of the project is the televising analysis and is included in the budget for \$4,500.

On a motion of Councilman Wayner, seconded by Councilwoman Jansen, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
 Nays 0

Resolved the proposal from Wendel for \$4,500 for the sewer project evaluation and recommendation is approved and the Supervisor is authorized to enter into an agreement with Wendel for this purpose.

RESOLUTION 127-2016

REFUSE BID

Supervisor Engert stated that our consortium made up of the Towns of Somerset, Newfane, Pendleton and Cambria accepted the low bid of \$158.50/unit from Modern Corporation. Currently we are under contract with Modern for approximately \$172/unit. The other bids that were submitted were Allied at \$161/unit, and Waste Management at \$210/unit. The four towns are going to go out to bid together for tire recycling.

On a motion of Councilman Dewart, seconded by Councilwoman Jansen, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
 Nays 0

WHEREAS, the Town, in cooperation with the Towns of Pendleton, Cambria and Newfane, put out for bid refuse and recycling service, and

WHEREAS, Modern Disposal Service Inc. was the lowest bidder at the price of \$158.50/unit for 2017;

NOW, THEREFORE, BE IT

RESOLVED, The Town awards Modern Disposal Services Inc. the waste, refuse collection and disposal, and recyclables collection and processing and marketing bid at \$158.50/unit for 2017; and

BE IT FURTHER

RESOLVED, the Town Supervisor is hereby authorized to execute a contract and other supporting documents necessary to effectuate this award.

RESOLUTION 128-2016

SOLAR ENERGY SYSTEMS LOCAL LAW

On a motion of Councilwoman Jansen, seconded by Councilman Wayner, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
Nays 0

WHEREAS, the Code of the Town of Somerset contains and specifies the local laws, and ordinances of the Town of Somerset; and

WHEREAS, a proposed local law entitled "Solar Energy Systems" has been introduced; and

WHEREAS, the Town would like to start the process of considering these zoning revisions, and in accordance with Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Somerset Town Board would like to establish itself as SEQRA Lead Agency; and

WHEREAS, the Town would like to refer these proposed code revisions to Niagara County Planning Board in accordance with General Municipal Law Section 239-m and to the neighboring municipalities under General Municipal Law Section 239-nn;

NOW, THEREFORE, BE IT

RESOLVED, that the Somerset Town Board authorizes the completion of a coordinated SEQRA process; and be it further

RESOLVED, the Somerset Town Board authorizes the completion of the General Municipal Law Section 239-m referral to the Niagara County Planning Board and General Municipal Law Section 239-nn referral to the neighboring municipalities; and be it further

RESOLVED, that the Somerset Town Board does hereby call for a public hearing to be held on a proposed local law entitled "Solar Energy Systems" at the Somerset Town Hall, 8700 Haight Road, Barker, NY 14012 at 6:30 p.m. on November 9, 2016.

RESOLUTION 129-2016

COMPREHENSIVE PLAN UPDATE

Supervisor Engert stated that in July the Board requested that our Town Planner provide a proposal to update our Comprehensive Plan to align it with local laws that exist in our Town. This is a budgeted item.

On a motion of Councilwoman Jansen, seconded by Councilman Dewart, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
Nays 0

TOWN BOARD MEETING
OCTOBER 12, 2016 PAGE 4

Resolved to adopt the proposal submitted by Wendel and to authorize the Supervisor to enter into an agreement with Andrew C. Reilly for \$7,000 - \$9,000.

Councilwoman Jansen stated that she is glad we are doing it this way instead of after a long period of time because we would end up with a protracted redraft of the Plan.

Supervisor Engert agreed that this is more economical.

The Board will hold a special meeting on October 26th at 6:30PM to start the process.

RESOLUTION 130-2016

NEW YORK STATE SNOW AND ICE AGREEMENT

On a motion of Councilman Wayner, seconded by Councilman Alt, the following resolution was

ADOPTED: Ayes	5	Engert, Wayner, Alt, Jansen, Dewart
Nays	0	

Resolved that Supervisor Engert is authorized to enter into a municipal snow and ice agreement with New York State for the removal of snow and ice from state highways for 2018.

RESOLUTION 131-2016

EMERGENCY REPAIR – LOWER LAKE ROAD WATER LINE

Supervisor Engert stated that a water line that runs under Fish Creek is leaking. We need to make repairs to uphold the integrity of the line, particularly fire flows.

Councilman Dewart asked if the time frame is the end of the year.

Superintendent Denny stated that we are going to repair it as soon as we can. Our engineer has asked a company for a price on slip lining, and we have to purchase water line and valves. He said that we will do some of the work ourselves and hope to do it in October or November.

Engineer Sibiga stated that we have to coordinate with the County Health Department. They will allow us to work on this quickly as it is an emergency, but they still want the oversight to give us the approval and make sure the facilities are constructed to standard.

Councilman Alt asked if the work can still be done if the weather turns wet.

Superintendent Denny stated that we should be okay since we should not have to dig through the creek as we are hoping to reline the existing pipe, dependent upon the cost.

Councilman Wayner stated that DEC regulates the creek, so the slip system would allow us to eliminate road blocks there.

Brian Sibiga stated that we would be just upgrading an existing structure so we would not have any new contamination or disturbance of the creek. It would also be less impact on the residents in the area to reuse the structure we have already paid for. That also makes it more cost effective.

Superintendent Denny reviewed our documents and determined that the rest of the lines are not steel so are not compromised. He will double check other creek beds to be sure.

TOWN BOARD MEETING
OCTOBER 12, 2016 PAGE 5

On a motion of Councilman Wayner, seconded by Councilwoman Jansen, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
Nays 0

WHEREAS, a water main break was recently discovered in a water line crossing Fish Creek in the Town of Somerset, and

WHEREAS, the size and location of the leak required the Town to take a portion of water line out of service by closing valves on either side, thus severely restricting available water flow to fire hydrants on both sides of the ruptured water line, and

WHEREAS, the Town's engineers have submitted a memorandum to the Town in which they give the opinion that the reduced water flow available for fire-fighting purposes constitutes a danger to the health and safety of Town residents, and

WHEREAS, the Town's engineers have advised that Scanex Pipe Service is a reputable firm with the ability to address and fix the water main break and is available to do so, and estimate that the cost of the needed repair will not exceed \$50,000.00,

NOW, THEREFORE BE IT

RESOLVED, that said water main break constitutes a public emergency as that term is defined by GML §103(4) requiring immediate action that could not await competitive bidding procedures, and

BE IT FURTHER

RESOLVED, that Scanex Pipe Services and Wendel be engaged to address and fix the water main break at a maximum expenditure of \$50,000.00, and the Supervisor is authorized to execute agreements and documents to effectuate the same.

RESOLUTION 132-2016

FISH CREEK WATER LINE REPAIR - WENDEL

Our engineering firm proposes to provide design and construction services for work associated with repairing the water main break under Fish Creek for a maximum total of \$8,465.

On a motion of Councilwoman Jansen, seconded by Councilman Dewart, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
Nays 0

Resolved the proposal is accepted for \$8,465 and the Supervisor is authorized to enter into an agreement with Wendel to conduct the work.

RESOLUTION 133-2016

SURPLUS EQUIPMENT

Supervisor Engert advised that our Highway Superintendent has replaced a couple of pieces of equipment resulting in a surplus of equipment. Superintendent Flint would like to place those items into an auction to recoup some money.

On a motion of Councilman Alt, seconded by Councilman Dewart, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
Nays 0

Resolved to declare a 1996 Tandem Axle Dump and a 2002 Ford Super Duty Dump are surplus equipment and Superintendent Flint is authorized to enter them into an auction for disposition.

RESOLUTION 134-2016

UNPAID WATER AND SEWER BILLS

Supervisor Engert said that he would like to have a future discussion with the board on this topic to encourage residents to pay their bills in a timely manner.

On a motion of Councilman Alt, seconded by Councilman Wayner, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
Nays 0

Resolved any unpaid water and sewer bills be placed on taxes for 2017.

RESOLUTION 135-2016

2016 SALARY APPROVAL

Supervisor Engert stated that the Town is currently being audited by the State Comptroller's office and they recommend that we retroactively adopt salaries individually for 2016. We will start approving the itemized salaries annually at our reorganizational meeting.

On a motion of Councilwoman Jansen, seconded by Councilman Dewart, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
Nays 0

Resolved to approve the salaries retroactively for 2016 as per the itemized and posted Salary Listing.

RESOLUTION 136-2016

CONSTABLE 8 HOUR WORK DAY

Supervisor Engert stated at the time Somerset reported standard workdays for retirement we did not have a police unit so we have to establish their workday.

On a motion of Councilman Wayner, seconded by Councilwoman Jansen, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
Nays 0

TOWN BOARD MEETING
OCTOBER 12, 2016 PAGE 7

Resolved that the Town Board of the Town of Somerset does hereby establish an 8 hour work day for Police Constables for the purpose of determining days worked reportable to the New York State Retirement System.

RESOLUTION 137-2016
PRELIMINARY BUDGET

Supervisor Engert provided highlights of the 2017 budget:

- 20% PILOT reduction
- 2% decrease in appropriations
- 13% decrease in unexpended balance
- Tax rate held steady
- Highway equipment being purchased using unexpended balance
- The fire rate is in line
- Refuse and garbage is offset with sales tax revenue to keep the cost to the taxpayer down

Councilman Wayner acknowledged Supervisor Engert's efforts on the budget and thanked the department heads for their good management practices.

On a motion of Councilman Wayner, seconded by Councilwoman Jansen, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
Nays 0

Resolved the tentative budget is adopted into a preliminary budget for 2017.

RESOLUTION 138-2016
PUBLIC HEARING 2017 BUDGET

On a motion of Councilman Dewart, seconded by Councilwoman Jansen, the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
Nays 0

Resolved a public hearing will be held on November 9, 2016 for the proposed 2017 budget.

RESOLUTION 139-2016
AUDIT OF CLAIMS

On a motion of Councilwoman Jansen, seconded by Councilman Alt the following resolution was

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
Nays 0

Resolved that the bills have been reviewed by the Town Board and are authorized for payment in the following amounts:

General Fund	No. 343 through No. 379	\$ 46,160.93
Highway Fund	No. 118 through No. 132	\$ 65,628.63
Sewer Fund	No. 115 through No. 127	\$ 21,304.01
Water Fund	No. 75 through No. 85	\$ 4,976.30

TOWN BOARD MEETING
OCTOBER 12, 2016 PAGE 8

Supervisor Engert announced that Somerset's Veterans' Dinner will be Sunday, November 13, 2016 at 4:30PM at the Barker Fire Hall.

PRIVILEGE OF THE FLOOR:

Pam Atwater said that the spokesperson for APEX stated that those who are opposing the project possess a fear of the unknown. She said that Taylor has stated that we should wait until the application is submitted to learn the specifics of the size, placement and other details before we voice our objections. Pam said "it is not the unknown that we fear, it is what we do know that causes us grave concern." She said she spoke to a man living near wind turbines in Massachusetts who was a healthy man and now suffers from high blood pressure, headaches, etc. She also quoted from a press release from the World Health Organization which says that "the vastly increased scale of today's turbines means that the current recommendation on turbine separation is grossly inadequate."

Cathi Orr spoke of the Solar City project. She heard Carl Paladino state the developer paid \$800/square foot, and he (Carl) could furnish a luxury hotel for \$150/square foot.

Chris Bronson expressed her gratitude for the Town Planning Board and congratulated them on their continued dealings with APEX. She said except for a handful of people, Somerset's residents have continually expressed their opposition to the project but APEX persists. She is happy that our Planning Board is treating the Met Towers as a SEQRA I instead of SEQRA II. She stated that APEX has 59 projects in 24 other states so they can do without us and should pursue the other states.

Dale Howard stated that our Final Assessment Roll shows that our Uniform Value is 91% which is down from 98%. He asked if there is any movement to do another revaluation, or let it play out since we have an active real estate market now?

Jim Hoffman thanked the Town Board and gave accolades to the Planning Board for their thoroughness. He stated there are accusations that nothing is happening in Somerset then listed various businesses that have built or expanded here including JT Precision, Blackbird Cidery, Barker Brewery, a meat processing plant, and the upcoming expansion of Mayer Bros. He said these are not controversial; have few if any environmental issues; little disruption to the Town; and they fit within the fabric of the community. He said they are everything that APEX is not and he hopes APEX pulls the project.

Marcia Ray commended our community for their intelligence and thanked Supervisor Engert and Pam Atwater for their comments on WLVL. She said that both of her properties are surrounded by farmers who have leased their property to APEX and she is concerned mostly with the noise and visual factors. She talked about a study in Italy where their grapes grew abundantly when they played sweet music but that is not what she will hear. She will protest if they come into her space.

TOWN BOARD MEETING
OCTOBER 12, 2016 PAGE 9

Betty Wolanyk thanked the Town Planning Board for their efforts and wants them to know the community appreciates it. She discussed the following:

- At a meeting with the Air Force expert, he stated their planes do not fly over here. She disagrees with that and said they have been flying over here a lot lately.
- Obsolete three blade turbines are meeting obstacles around the world.
- A town in Vermont is opposed to wind turbines and the turbine company is offering to pay each resident \$2,500/year for twenty five years if they will allow the turbines to be built.
- The project is said to generate enough electricity to power 53,000 homes, but that is based on winds constant at 30mph which we have only 1% of the time. She stated that type of wind prompts a wind advisory from the National Weather Service.

Steve Royce suggested viewing the website www.nyiso.com which shows what portion of energy is produced by the various fuels including wind.

Mike Basil discussed a few points that are bothering him about the \$400 million project.

- In the PSS, APEX briefed over the need for the project. Mike feels the need should be first. We are almost 100% clean renewable energy from Niagara Falls already. They should have the burden of proof to show need for the project.
- The height of the turbines keeps increasing and he believes APEX should show us a noise, shadow and flicker impact map based on the new heights.
- The DPS asked for this map at another site, but not for our project. He feels there should be a standard application process, it should not be up to the builder.
- Can the Town request from APEX the topics of the lawsuits they have been forced to defend themselves on? The results are proprietary, but the grounds should be public. This could help us prevent that from happening here.
- He feels the setbacks should now be in terms of miles.

Taylor Quarles said they plan to have a strong local presence with a full time employee staffing the office 4 days/week. He said there is some confusion and statements are made that aren't always true including Niagara Falls, the height, and fuel mix. He is eager to have conversations about them so invites people to reach out to him. Over Fall and Winter they are continuing to work through the stipulations process and will provide an updated schedule as soon as possible after the process is complete.

Sue Davis stated that residents are not confused, Taylor is.

Cynthia Hellert said that Taylor is making a blanket statement that the residents are saying untrue things. She said the Board should ask him what we aren't telling the truth about. Supervisor Engert stated that the meeting is not a forum to go back and forth. He said that he empathizes and agrees, but wants to keep the meetings orderly. He said that Taylor offered to meet individually with people so she should schedule that if she is interested in doing it. He stated that the Board has work to do responding to a couple FOIL requests that APEX has served the Town and Planning Boards with.

TOWN BOARD MEETING
OCTOBER 12, 2016 PAGE 10

Floyd Koerner stated that the tax base for the power plant being down is concerning. He wrote an editorial in the paper that this town has had business opportunities to come into the Town, but at this point that has not developed. He said dairy farmers look prosperous on the outside, but milk prices have gone down from \$27 a few years ago to \$14.50. They have field problems and there is no relief. A farmer had to borrow \$1.5 million to stay in business. He said that maybe you should spend some time with farmers to see what they are going through. Farmers with cash crops have seen prices decrease from \$7.50/bushel down to \$3.50/bushel. Farmers are looking for extra revenue to sustain their operations. Since 1992 our tax amount has increased 300% and will go higher if we continue to lose tax base. He applauds the Board for taking measures to cut costs.

Agnes LaPort thanked the Board for working on the tire pickup. She said she believes we all appreciate our farmers. She stated that turbines destroy some of the farm land with access roads, and the vibrations mess with cows' minds and they produce less milk.

On a motion of Councilwoman Jansen, seconded by Councilman Alt, the meeting adjourned at 7:45P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk