

TOWN BOARD REGULAR MEETING
APRIL 13, 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 13th day of April, 2016.

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

Absent: Jeffrey M. Dewart ----- Councilman

Attended by: approximately 80 residents and BCS students

Supervisor Engert called the Meeting to order at 6:30PM with the Pledge to the Flag and prayer.

RESOLUTION 81-2016

APPROVAL OF THE MINUTES

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

ADOPTED: Ayes 4 Engert, Wayner, Alt, Jansen
 Nays 0

Resolved the minutes of the previous meeting on March 9, 2016 are approved as submitted.

RESOLUTION 82-2016

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

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

ADOPTED: Ayes 4 Engert, Wayner, Alt, Jansen
 Nays 0

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

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer
Police Report

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COMMUNICATIONS:

Clerk Carmer read correspondence received from NYSERDA announcing a seminar on energy issues affecting low-income New Yorkers to be held in Albany on May 25th and 26th.

RESOLUTION 83-2016

HEALTHCARE CONSORTIUM CONSULTANT AGREEMENT

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

ADOPTED: Ayes 4 Engert, Wayner, Alt, Jansen
 Nays 0

Resolved the Supervisor is authorized to enter into an agreement with Arthur J. Gallagher & Co, for consulting and related work on the grant, subject to approval by the Town Attorney.

RESOLUTION 84-2016

APPOINTMENT TO BOARD OF ASSESSMENT REVIEW

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

ADOPTED: Ayes 4 Engert, Wayner, Alt, Jansen
 Nays 0

Resolved Robert Frost is appointed to fill the vacancy on the Board of Assessment Review with a term expiring September 30, 2020.

Councilman Wayner expressed that he has known Bob for many years and that Bob is fair-minded and well-principled. He wholeheartedly endorses Bob for this position.

RESOLUTION 85-2016

TIRE RECYCLING AGREEMENT

Supervisor Engert advised that the Town has sponsored a tire recycling program for Town residents for 29 years. The programs have been significantly cut and it is becoming costly to provide the service. He said that we need to measure how many residents are using the service while we continue to provide the service this year.

Superintendent Denny stated that he received rates from three different companies, and all three provided their specs in different ways. Of the three companies, two of them have a lot of variables so he suggests going with the company that has a set rate.

Councilman Wayner said the Town is not in the business of tire recycling and feels it is time to take a hard look at the program. He agreed that we should continue it this year.

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

ADOPTED: Ayes 4 Engert, Wayner, Alt, Jansen
 Nays 0

Resolved the tire recycling agreement be awarded to Heinrich Services LLC at the set rate of \$198/ton.

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RESOLUTION 86-2016

SPECIAL MEETING

Supervisor Engert stated that the Highway Department has the purchase of a tractor/mower in the budget for this year. Since the packet of prospective tractors was not provided to the Board members until this afternoon, he suggests that we wait a couple of weeks and hold a special meeting to award the purchase.

Councilman Wayner stated that Niagara Frontier Equipment is a local supplier and Z&M has not replied. He is unsure who NJPA is.

Councilwoman Jansen asked for a copy of the specs so she can compare apples to apples. Attorney Norris advised that you should be able to pull information off of the State Bid system.

Councilman Alt stated that New Holland falls under the State Bid.

Superintendent Flint stated that New Holland is the cheapest of the three presented. He stated that NJPA is like another version of the State Bid contract. He was just at a conference and 30%-40% of the equipment on display were NJPA.

Attorney Norris stated that NJPA stands for National Joint Power Alliance. He said it is a group out of Michigan or Minnesota and some municipalities use them. He stated that based on the research he found, it is his legal opinion that NJPA is not a recognized political subdivision under general municipal law and he would rather go off state bid or prepare our own bid.

Supervisor Engert asked if New Holland meets the State Bid specs.

Superintendent Flint said that New Holland got the State Bid. He stated that he put in for a John Deere, but that was not on state bid pricing.

Supervisor Engert stated that the board is not in disagreement with Attorney Norris, but they go above and beyond and want three quotes off of a state bid for competitive pricing.

Attorney Norris stated that legally he feels comfortable going with State Bid, but he understands the board would like three prices.

Supervisor Engert requested that the Highway Superintendent and Town Attorney research this matter further and report back to the Board.

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

ADOPTED: Ayes 4 Engert, Wayner, Alt, Jansen
 Nays 0

Resolved a Special Meeting be held at 6:00PM on Wednesday, April 27, 2016.

RESOLUTION 87-2016

AUDIT OF CLAIMS

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

ADOPTED: Ayes 4 Engert, Wayner, Alt, Jansen
 Nays 0

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

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General Fund	No. 113 through No. 161	\$ 72,611.39
Highway Fund	No. 47 through No. 58	\$ 23,116.07
Sewer Fund	No. 30 through No. 46	\$ 4,772.21
Water Fund	No. 26 through No. 32	\$ 31,202.78

PRIVILEGE OF THE FLOOR

Norm Jansen stated that he feels it would be foolish to curtail the tire recycling and said that tires would end up in ditches.

Pam Atwater thanked the board for alerting the Attorney General of the deceptive practices of APEX. She stated that on April 7th there was a motion by APEX's attorney opposing the Town's request for stakeholder participation in which the attorney stated "all participating parties engaging in the stipulations process are doing so based on a genuine good faith intention to come to some agreement....." She doesn't feel that APEX acts that way and said that good faith works both ways.

Cathi Orr thanked the board for hiring Attorney Vacco. She said that wind companies have a sloppy strategy and the Town and Planning Boards do a good job. She stated that APEX makes false claims and uses studies with people who have no credentials. She stated that assessments in Orangeville have increased again and she will get more details.

Jim Hoffman is grateful the Town Board has continued their involvement. He feels the DEC seems to side with APEX and we are being shut out of meetings that we deserve to be involved in. He said that we are accused of spreading myths and he addressed a few. The community identified problems such as cracked foundations; someone's dog will not go outside; some keep their shades closed because of flicker. It was suggested to go to Tug Hill but based on Jim's research Tug Hill is not comparable to our location. It is inland, has smaller turbines and is less populated. Regarding the carbon footprint, studies show these will always be an environmental negative. There is steel, aluminum and cement that did not have to be made. He stated that the effects on wildlife are well documented and 4,800 bats are killed each year at Tug Hill. He said that power is said to be free, but they make their money from the subsidies. When the wind doesn't blow, they need to have a backup power source.

Mike Basil thanked the Town Board for their efforts and made some observations:

- Selective release and concealment of information by APEX
- Attitude APEX is protected by Article X and can do and say anything they want without consequence
- Unethical approach: APEX began signing leases without the Town's knowledge and the project area was expanded without the Town's knowledge
- They have ignored letters from US Fish and Wildlife and continue to sign leases. He wonders if the landowners who signed were aware of the letters.

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- The PSS was filed with deficiencies
- They have not included both county boards of health as stakeholders
- We already get almost 100% of our electricity from renewable energy and do not need wind energy to reduce fossil fuel emissions. This project will duplicate clean, renewable energy at taxpayer expense. He asks what gives APEX the right to tell us what power we need.
- They state the project will begin in 2017 which is a falsehood stated to advance the project.
- These turbines will cast a shadow for almost six miles. Our population is approximately 100 people per square mile excluding summer residents. Do lease signers know that they project will affect neighbors miles away? He feels if APEX was truly concerned with our community as they state, then they should not have hidden this information.
- The majority of 600 foot turbines are designed for offshore, not on land in populated areas.
- APEX ignores the fact that landowners will be sued by their neighbors.
- They have ignored surveys, legislators, environmental groups, and the community.

He stated that it is time to put APEX on the defensive. He advised that they are being sued in High Point, Oklahoma for all of the same things that we are concerned about. He stated that after exerting unethical actions, APEX is getting ready to sue the Town for being overly burdensome to their project. He feels we should sue APEX for harassment. The Town is merely protecting itself.

Andrew Atwater stated regarding the tires that he would like the board to make a decision quickly so they will leave the old tires when purchasing new ones. The farmers can also pay a vendor to come and take their tires. On another note, he said that as a small farmer, the best thing to do with land is farm. He asks farmers not to sign any more leases, and break the leases that they have with APEX.

Marcia Ray is highly offended by APEX' claim to discredit our voice. She said that our residents are highly experienced and professional. She thanks all of those who have done the research and given us the facts to help us fight this. She wants the board to be strong.

Wally Coates stated that years ago lots of farms had tires and you couldn't see them. If we stop recycling them, he feels most people will not pay to get rid of them and they will pile up again. He said it is an indirect benefit by not seeing them and it eliminates mosquito breeding. He feels the wind turbine issue is a matter of zoning. When we started zoning 60+ years ago in Somerset, Yates did not. They let trailers get placed wherever they wanted and they depreciated as soon as they were placed. The farmers ended up being burdened with the taxes. He feels we were better off and had water lines years before Yates because of the taxes. He said we are only caretakers of our property while we are here. It will be left for future generations.

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Taylor Quarles encourages people to come to the office. He stated that the board meeting is not the place to address the points that have been brought up. He also encourages residents to visit wind farms and knock on random doors. He advised that they have purchased a 15 acre property for consideration as a project office. They have sent a letter to all parties requesting to know if they are interested in undertaking stipulations. The letter and responses will be available for public record. Regarding the Niagara Falls issue, they have hard copy letters from the Department of Defense siting clearing house stating that there is no impact. The Federal Labor Department views Wind Turbine Technicians as the fastest growing jobs over the next 20 years with good pay. He advised that they have signed the Attorney General Code of Conduct and are in compliance with the first round and plan to continue to do so. Regarding the issue of signing leases before the Town knew they were here, he wanted to once again state that the first time they appear in the board minutes is November 2013, and the first lease was signed in April 2014. He ended by reminding everyone they have office hours every week and they encourage people to bring in studies.

Dick Ray said that wind power people have the deck stacked against us. He feels it is ridiculous that a company can install a wind farm and propose to pay a fraction of the taxes for it than if he had installed one in his yard. He said that they should pay on the full price of the cost of building them.

Agnes LaPort said that the governor is giving Buffalo \$6 million to rectify the Kensington Expressway for ideas to figure out what to do (like put bridges over it to reconnect the neighborhood.) She said it took them 65 years to realize it was a bad idea, and it will not take us that long to realize windmills for this area are not a good idea. She thanked the board for their diligent work. She looks forward to working with the wonderful people to make Somerset and Yates the best place on Earth to live after APEX leaves.

Chris Bronson is happy to be part of the community. She attended the Planning Board meeting the other night and stated that Attorney Norris held APEX' feet to the fire. She is glad the Planning Board members were tough and said there was a lot of fluff from APEX. She stated that meteorological towers are not covered under Article X so it is up to the Town to say no more towers.

Betty Wolanyk thanked the Town Board for working so hard on our behalf. She addressed the Oklahoma lawsuit and said there is a video where the residents discuss why they are suing. She stated the impact on the students with ADHD, sight or hearing problems, is that they are not functioning and that is why there is a lawsuit. She said it is a large citizen's group doing a small grass roots effort. She stated that the American Bird Conservatory has Somerset and Yates listed as one of the 10 worst sites to place wind turbines. The first five on the list already exist, and we are number 7, or the second on the list for projects yet to be built. She stated that the National Guard was going to install a wind turbine facility in Ohio and backed down because the American Bird Conservatory filed a lawsuit so she feels this is not a done deal.

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Chris Kraft worked for the Department of Energy and said the first time he heard of the project was in 2015 at a meeting in Yates. He suggests that when people attend APEX' meetings or go to their office that they do not sign their sign-in sheet because it is for public outreach and shows a head count, not whether you are for or against the project.

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

Tracy L. Carmer, RMC
Town Clerk