

TOWN BOARD REGULAR MEETING
APRIL 12, 2017

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 April 2017.

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

Absent: Robin R. Jansen ----- Councilwoman

Attended by: Approximately 35 residents and students

Supervisor Engert called the meeting to order at 6:33PM with the Pledge to the Flag

RESOLUTION 44-2017

APPROVAL OF THE MINUTES

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

ADOPTED: Ayes 3 Engert, Alt, Dewart
 Nays 0

Resolved the minutes of March 8, 2017 be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer
Dog Control
Police Report

QUARTERLY REPORT RECEIVED AND FILED:

Water/Sewer Quarterly Comparison Reports

RESOLUTION 45-2017

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

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

ADOPTED: Ayes 3 Engert, Alt, Dewart
 Nays 0

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

Supervisor Engert asked for prayers for Councilwoman Jansen who is absent due to illness.

COMMUNICATIONS:

Clerk Carmer presented the results of the Town's audit by the State Comptroller's office to the board as part of their packet tonight. She also stated that a letter was received by New Wave Energy advising that effective April 1st a non-energy related charge that is state mandated will be added to bills.

Supervisor Engert added that this was driven by the utilities seeking permission from the Public Service Commission to itemize the surcharges (taxes). The PSC thought it would be too confusing to the ratepayers if they are itemized so they are lumped together.

FUEL TANK REMOVAL

Previously during an inspection by the DEC it was determined that a fuel tank at the highway department needs to be removed. Funds were budgeted last year but the project did not get completed so the funds were encumbered this year. We need two written quotes and one was obtained by our Highway Superintendent and our engineering firm will obtain the second quote. Supervisor Engert would like the quotes submitted before our next meeting. Highway Superintendent Flint confirmed that we can wait and do not need to hold a special meeting for authorization.

RESOLUTION 46-2017

HAZARD MITIGATION PLAN

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

ADOPTED:	Ayes	3	Engert, Alt, Dewart
	Nays	0	

WHEREAS, Town of Somerset, with the assistance from Witt O'Brien's, has gathered information and prepared the Niagara County NY Hazard Mitigation Plan; and

WHEREAS, the Niagara County NY Hazard Mitigation Plan has been prepared in accordance with the Disaster Mitigation Act of 2000; and

WHEREAS, The Town of Somerset NY is a local unit of government that has afforded the citizens an opportunity to comment and provide input in the Plan and the actions in the Plan; and

WHEREAS, The Town of Somerset NY have reviewed the Plan and affirms that the Plan will be updated no less than every five years;

NOW THEREFORE, BE IT RESOLVED by the Town Board that The Town of Somerset NY adopts the Niagara County NY Hazard Mitigation Plan as this jurisdiction's Natural Hazard Mitigation Plan, and resolves to execute the actions in the Plan.

Supervisor Engert noted that the Hazard Mitigation Plan needs to be updated every 5 years.

RESOLUTION 47-2017

SURPLUS EQUIPMENT

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

ADOPTED: Ayes 3 Engert, Alt, Dewart
 Nays 0

WHEREAS, the Town of Somerset has acquired certain personal property for the purpose of carrying out services in the public interest; and

WHEREAS, the Town Board has deemed it unnecessary to maintain ownership of personal property of the Town which has become worn out, obsolete or no longer needed; and

WHEREAS, the Town Board desires to dispose of the following surplus property:

Water Department Equipment:

1. John Deere Self-propelled walk behind mower model JX85/green/2000 (quantity 2)
2. John Deere Self-propelled walk behind mower model JX75/green/1999 (quantity 1)
3. Mower Deck, 72 inches/green/2008
4. John Deere Snow Blower model 1032/green/1998
5. PTO driven concrete mixer, red/grey/1982
6. Echo chipper/shredder model SC3305/orange/2011
7. Buyers SUV Salt Spreader model TGSUVPROA/black/orange/2008

Highway Department Truck:

1. 1998 Peterbilt tandem axle plow truck with front plow, wing blade, and slide in salter, 109,654 miles

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Town Board of the Town of Somerset, New York that the Town Board finds and declares that the Town no longer has a use for the surplus property listed above; and be it further

RESOLVED, the Town Water/Sewer/Grounds Superintendent is authorized and directed to arrange a bid auction for the purposes of selling the above listed Water Department surplus property to the highest bidder; and be it further

RESOLVED, the Town Highway Superintendent is authorized and directed to arrange a bid auction for the purposes of selling the above listed Highway Department surplus property to the highest bidder; and be it further

RESOLVED, the Town Supervisor is authorized to execute any documents to the highest bidder or to donate or otherwise dispose of the above listed surplus property if no bids are received.

RESOLUTION 48-2017

LABOR COUNSEL

Supervisor Engert stated that we have a pending legal matter and it is in the best interest of the Town to obtain special legal counsel

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

ADOPTED: Ayes 3 Engert, Alt, Dewart
 Nays 0

WHEREAS, the Town Board of the Town of Somerset considers it to be in the best interest of the Town to retain special counsel with regard to a pending labor grievance alleging overtime violations; and

WHEREAS, contracts for professional services are not subject to the competitive bidding requirements of the Town's Procurement Policy;

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Somerset hereby hires Melinda Disare of Bond Schoeneck & King to represent the Town during the pending labor grievance alleging overtime violations; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Somerset hereby authorizes and directs the Supervisor to execute any and all documents in such form as is satisfactory to the Town Supervisor and the Town Attorney, and take whatever other actions may be necessary to give effect to this resolution.

RESOLUTION 49-2017

TIRE DROP OFF

This year's tire drop off will take place April 24 – 28 from 7:00AM – 3:00PM, and April 29 from 7:00AM – 11:00AM at the **Highway Garage**.

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

ADOPTED: Ayes 3 Engert, Alt, Dewart
 Nays 0

RESOLVED, the Town Board authorizes the Water Superintendent to coordinate and work with the Highway Superintendent to solicit bids, minimally three if possible, either verbally or in writing;

BE IT FURTHER RESOLVED, the Town Board authorizes the Water Superintendent to execute the necessary documents with the lowest responsible bidder for the pickup of tires by the recycler in an amount not to exceed \$6,000.

MULTIPLE USE PLAN

Supervisor Engert discussed the Multiple Use Plan with the power plant that was adopted in 1982. He feels discussions need to be held and will form a committee to address the future of the power plant and the economic impact from the challenges placed upon the plant by policies being pursued by the state along with market changes. The board will vote on the adoption of a resolution at our next meeting so we make sure our interests are heard.

RESOLUTION 50-2017

AUDIT OF CLAIMS

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

ADOPTED: Ayes 3 Engert, Alt, 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. 122 through No. 167	\$ 42,601.84
Highway Fund	No. 40 through No. 58	\$ 33,334.02
Sewer Fund	No. 29 through No. 49	\$ 10,225.67
Water Fund	No. 26 through No. 38	\$ 35,284.57

PRIVILEGE OF THE FLOOR:

Kate Kremer thanked the board for their work and for looking ahead and provided two submissions for the record. She discussed recent testimonials citing decibel levels of 50+ on turbines that produce jet like sounds in Jericho. She also discussed a project in Canada where turbines were installed in December 2016, and in February 2017 forty residents complained to the developer that the turbines are louder than they were told. She said there is a Canadian study that is often referred to by developers as not having problems with sounds or health. She read the study and said the study does not actually state that. She read a couple lines from page two that says this study may not be generalized beyond the sample areas as the locations were not randomly selected. She stated the results do not permit conclusions about causality. She also pointed out that the study does not include children or people with conditions.

Cathi Orr provided personal observations from Orangeville. She watched the peace and quiet, and health, welfare and safety of her neighbors disappear. She said that project has cracked and faulty fiberglass blades and have to bring in big cranes to fix. The repairmen were wearing hazmat suits leading her to wonder what is in the blades. She said that the

draft environmental impact statement fails to take into consideration the cumulative impact of noise. She said that 18 turbines were placed within 2 miles of her home and they created continuous erratic noise. She spoke of a Sheldon resident who had a turbine 1800 feet from his house and when he placed a glass of water on the table and you could see the water jumping from the infrasound. She has witnessed that turbines do not all sound the same and roar when it is windy. She stated that Invenergy admitted in 2010 that 163 Orangeville residents would be affected by noise and shadow flicker and signers had to sign a hold harmless agreement.

Jim Hoffman read from magazine articles and said that there is a boom in copper mining because of green energy and he compares it to coal mining which is dirty. He also discussed military concerns that sparked a moratorium in North Carolina through December 1, 2020 (if approved) to study the effects of wind turbines on the base. He spoke of the Northern Access Pipeline that was just killed by the DEC due to inadequate planning and crossing streams that infringe on wetlands. He stated that we have wetlands here and he listed creeks in the area and said this would have economic damage because the fishing industry is big here. He has an article about the world's longest wind turbine blade that is 290 feet long. He said to imagine something the size of two football fields that weighs 30 – 40 tons spinning in the air. He stated that DEC wants to revise SEQR and said to watch the revisions because the last time the laws were changed Article 10 was created.

Cynthia Hellert thanked the Board for their concern and said she is a health professional so she goes to the source and listens to the subject. When Brown County declared a project a health hazard she called people there and obtained testimonies. The former director said that a critical missing piece is a baseline health study. Cynthia and Supervisor Engert went to our County Board of Health to express our concerns and requested a study. She said the Board of Health in both Orleans and Niagara counties agreed and requested a baseline health study. APEX said that a study is not feasible and she believes there reason is that it is too time consuming for them. She summarized testimony from four families that were documented for the Brown County declaration:

- A resident who lived one mile from a turbine developed ear problems that cleared when they were away from home
- Another resident who lives 1-1/2 miles from six turbines now has migraines
- A resident living near eight turbines has constant flu like symptoms
- A resident who was always healthy and ate organically developed headaches and sleeping problems and had to sleep in their basement

The director resigned after failing to exercise due diligence as she did not speak with residents who were ill even though she was presented with the names of the residents who became ill. She also admitted that she personally experienced headaches. She said that Yates entered into an agreement with APEX to avoid a lawsuit. She feels that it is not our board's job to enable a handful of residents to gain financially to the detriment of the majority.

Betty Wolanyk thanked the Supervisor for sending a letter to Governor Cuomo encouraging a 30 mile setback for us too, not just Long Island. She provided links for people she quoted pertaining to lessons learned. She said one lesson pertains to unintended consequences. She said that allowing APEX to build its first meteorological tower in Somerset means that we cannot prevent them from building other such towers and hopes that will not lead to the building of 70 monstrous turbines. Another lesson is not only to hear what people say, but what they do not say and she learned that when APEX visited her and told her that they would not build the turbines if they are not wanted. She took that at face value and now feels that she should have asked the right questions such as how they will measure if they are wanted here or not. She said clearly the answer has nothing to do with how the residents feel and the fact that APEX had to sue the Town to force two more meteorological towers is evidence of that. She feels they measure it by how many acres/leases they get signed up. She also spoke of a dog that whines and cries in the middle of the night because of infrasound. She hopes the state will support us in keeping the project from being built.

Agnes LaPorte brought up the fact that we have not seen Dan Fitzgerald from APEX in a long time.

Steve Royce noted that May 6th is "I Love My Park Day" and he encourages people to sign up to help clean the park. You would report at the Lighthouse at Golden Hill Park at 9:45AM for three hours of work.

Dale Howard said that is a great idea and we should have a program for the parks in Somerset and Barker.

Supervisor Engert stated that Dale should provide a detailed plan at our next board meeting.

Taylor Quarles stated that he continues to hear concerns as they work through the stipulations process with both parties. They will bring a full bodied application which addresses the subject areas that residents are looking for and he acknowledges the frustration over a lack of details. He said before the stipulations are signed they will be available to the public for review. He stated they will continue to provide a strong, local presence and are available for one-on-one and small group discussions.

On a motion of Councilman Alt, seconded by Councilman Dewart, the meeting adjourned at 7:35P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk