

TOWN BOARD REGULAR MEETING
FEBRUARY 10, 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 10th day of February, 2016.

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
Mindy Austin ----- Confidential Asst. to the Supervisor
Michael J. Norris ----- Attorney
Daniel Seaman ----- Attorney
Brian Sibiga ----- Engineer (late arrival)

Excused: Randall J. Wayner ----- Councilman
Robin R. Jansen ----- Councilwoman
Michael M. Flint ----- Supt. of Highways

Attended by: approximately two dozen residents and BCS students

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

PUBLIC HEARINGS

Hearing 1: Infrastructure Preservation

Notice of said hearing was sent to the Lockport Union-Sun & Journal on January 20, 2016 with same notice being posted on the same date at the Town Hall and on the website.

Supervisor Engert opened the Public Hearing on Infrastructure Preservation at 6:33PM.

Attorney Norris provided an overview. He stated that the intent of the proposed law is to protect the community's infrastructure when a large project comes into Town with heavy equipment. It would require a bond to be posted to ensure the roads would be placed back in the condition they were when the project started.

Clerk Carmer read the Notice of Hearing.

Dale Howard stated that we should add vacant land to Part B because heavy trucks could bring boulders for erosion. He also wants the board to delete "an appointed individual" in Part C and hire a third highway worker.

With all persons desiring to be heard, Supervisor Engert closed the hearing at 6:37PM.

Hearing 2: Zoning Chapter Amendment – Violations/Penalties

Notice of said hearing was sent to the Lockport Union-Sun & Journal on January 15, 2016 with same notice being posted on the same date at the Town Hall and on the website.

Supervisor Engert opened the Public Hearing on Zoning Chapter Amendment at 6:38PM.

Attorney Norris provided an overview. He stated that the proposed law applies to any violation of Chapter 205 Zoning. It sets the fines at \$250 with potentially up to 15 days in jail. For each week that there is a violation it would be a separate violation and applicable to another \$250 fine and up to another 15 days in jail.

Clerk Carmer read the Notice of Hearing.

With all persons desiring to be heard, Supervisor Engert closed the hearing at 6:41PM.

Brian Sibiga entered the meeting.

REGULAR MEETING

Supervisor Engert opened the meeting at 6:42PM.

RESOLUTION 55-2016

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 the previous meetings on January 13, January 18, and January 21 are approved as submitted.

Supervisor Engert excused the attendance of Councilwoman Jansen due to vacation, Councilman Wayner due to traveling to see his first grandbaby, and Highway Superintendent Flint because he is keeping the roads clear.

RESOLUTION 56-2016

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.

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MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer
Police Report

ANNUAL REPORTS RECEIVED AND FILED:

Somerset Youth Baseball

COMMUNICATIONS:

Clerk Carmer stated that she needs to appoint a Deputy Registrar with the retirement of Cheryl Reed. She appointed Stephanie Stoloski as Deputy Registrar and Shelly Arnold as Sub-registrar.

Clerk Carmer read a letter submitted by Heather McIntyre and Rob Mucha requesting to use Town roads to host a community-wide fun run and walk at 10:00AM on April 2nd to benefit the UNYTS Donate Life program.

RESOLUTION 57-2016

DONATE LIFE FUN RUN AND WALK

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

ADOPTED Ayes 3 Engert, Alt, Dewart
Nays 0

Resolved the Donate Life Fun Run is approved for April 2nd.

RESOLUTION 58-2016

DESIGNATION OF HIGHWAY FUNDS

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

ADOPTED Ayes 3 Engert, Alt, Dewart
Nays 0

Resolved that pursuant to the provisions of Section 284 of the Highway Law, monies levied and collected for the repair and improvement of highways, and received from the state for the repair and improvement of highways, \$288,171.00 shall be expended for the general repairs upon 33.42 miles of town highways, including sluices, culverts and bridges having a span of less than five feet and boardwalks or the renewals thereof.

RESOLUTION 59-2016

SURPLUS POLICE CAR BID

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

ADOPTED Ayes 3 Engert, Alt, Dewart
Nays 0

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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: 2004 Ford Crown Victoria, 174,334 miles, color – white

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 Clerk is authorized and directed to conduct a bid auction for the purposes of selling the surplus property to the highest bidder in a sealed bid after public notice; and be it further

RESOLVED, the Town Supervisor is authorized to execute any documents to the highest bidder; and be it further

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

Supervisor Engert notified the Board that he is calling for a Special Meeting on February 24, 2016 at 6:30PM to vote on proposed local laws.

RESOLUTION 60-2016

EXECUTIVE SESSION

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

ADOPTED Ayes 3 Engert, Alt, Dewart
Nays 0

Resolved the Board enter into an executive session at 6:48PM for consultation with the Town Attorney and Assessor.

RESOLUTION 61-2016

RETURN TO REGULAR SESSION

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

ADOPTED Ayes 3 Engert, Alt, Dewart
Nays 0

Resolved the Board return to regular session at 7:07PM.

RESOLUTON 62-2016

HEALTHCARE CONSORTIUM

Supervisor Engert stated that the results are in for feasibility study conducted for the Niagara Orleans Municipal Cooperative Health Care Consortium and it shows a 8% savings projection overall. This amounts to over \$3.4 million. Using the highest bid to provide conservative estimates, 70% of participants will realize savings. Ten entities will realize an average increase of 2%. The Town of Somerset will realize a projected annual savings of \$26,000. He stated that Niagara Falls is the only municipality in Niagara County that did not participate in the study. A new councilman invited the Supervisor to present it to their board. Supervisor Engert stated that a grant of \$220,500 was approved to fund the consortium which will be administered by the Town of Somerset. He also discussed the Governor's address where he was promoting shared services and will provide \$20 million to the entity with the most repeated savings to its taxpayers. He said the ad-hoc committee feels we have a good chance of receiving it.

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

ADOPTED Ayes 3 Engert, Alt, Dewart
Nays 0

Resolved the Town of Somerset is authorized to join the Greater Niagara Orleans Municipal Healthcare Consortium.

Supervisor Engert provided an update on Somerset Operating Company. He advised that the Niagara County IDA adopted the proposed PILOT and will be holding a Public Hearing at our Town Hall on Thursday, March 3rd at 4:00PM. He stated that he met with the Managing Director who is positive about the prospects of the plant and feels the plant can play a role in energy generation for New York.

RESOLUTON 63-2016

ASSESSOR CLERK

Supervisor Engert stated that there is a backlog in the Assessor's office due to the transition of Assessors over the past three years, and there is a need to help him get caught up with filing.

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

ADOPTED Ayes 3 Engert, Alt, Dewart
Nays 0

Resolved to hire a clerk for the Assessor to work 4-6 hours per week for a couple months.

RESOLUTION 64-2016

AUDIT OF CLAIMS

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

ADOPTED Ayes 3 Engert, Alt, Dewart
Nays 0

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

General Fund	No. 37 through No. 74	\$ 145,730.90
Highway Fund	No. 20 through No. 35	\$ 33,475.39
Sewer Fund	No. 9 through No. 19	\$ 3,067.68
Water Fund	No. 7 through No. 15	\$ 2,093.87

PRIVILEGE OF THE FLOOR

Jon Hotaling stated that he has been on the Planning Board for over 20 years and served on many committees. He feels the Ad-Hoc Committee for the wind turbine law was the most organized, professional and diverse committee he has had the privilege of serving on.

Taylor Quarles advised that APEX has filed an extension to respond to the comments (approximately 300) on the Public Scoping Statement. The new date is February 29th. He reminded the board that their office is open all week.

Betty Wolanyk discussed the stroke her mother had and stated the importance of having Mercy Flight to get patients to the hospital in a critical timeframe. She stated that with the bad weather, if they had to drive her to Buffalo they would have missed the three hour window. She was told that Mercy Flight would not come here with wind turbines. She asked if it is worth the risk of jeopardizing Mercy Flight for an intermittent power source? If the project is approved she urges the Town Board to refuse to negotiate a PILOT and tax them fully. She also discussed annoyances that are caused by wind turbines and said that APEX makes them appear insignificant.

Dale Howard stated that pro or con, we need an air corridor with a clear path to fly in, at least to the helipad. He feels this should be our paramount concern.

Cathi Orr advised the board of a wind tour she was a part of in Randolph. She said that a man who lived on Warsaw hill spoke to them about how the turbines got him so sick that he had to move. She said as soon as they got off the bus they could hear the loud gear noises, and another turbine sounded like a plane landing. They were able to get close to some turbines because they were placed within 500 feet of the road and she said you could feel the sound.

Wally Coates stated the importance of Mercy Flight with how far Somerset and Yates are from hospitals. He said that the fire department has protocols to follow before they can move a patient and that takes some time.

Herb Linderman suggested that thought should be given to the area that is required for turbines. He said that the area is no longer farmland but would be industrial and they should be assessed without agricultural exemptions.

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Cindy Hellert read a letter from Donn Riggi and submitted it for the record. She stresses the following points:

- 1) Energy benefits are minimal – wind turbines in NYS work less than 24% of the time.
- 2) The addition of noise, light and visual pollution is unacceptable – she said that leaseholders say they should be able to do what they want with their property and be allowed to have 570' turbines, but we can't even build a one story shed within 15 feet of the property line.
- 3) The negative impact to the land and wildlife is significant – examples are water flow and quality causing erosion and flooding, and wildlife being driven away by the vibrations in addition to the turbine blades being deadly to bats and birds.
- 4) The harm to our rural character far outweighs unreliable pay-offs to affected towns and individuals – business that depends on recreation and tourism traffic is likely to suffer, along with property values.

She feels local taxpayers would pay twice for this project, not to mention the loss of our quality of life.

John Wolanyk said that he met with the gentleman that Cathi Orr talked about. The gentleman told him to beware what to expect and what you might gain from this project.

Andrew Atwater stated that there is a belief that large government looks out for our good, but they look out for large corporations. He gave examples of Love Canal and the Lasalle Expressway being told by government that things were fine, but then people got sick.

Karen Corwin thanked the board and the Ad-Hoc Committee for doing their due diligence in trying to protect the Town. She said that this is not green energy.

Floyd Koerner discussed the zoning of turbines. He stated that the Town of Eagle in Wyoming County zones one acre industrial for each turbine. He stated that he toured three of four towns with wind turbines and saw a crane working and said that maybe some of the annoyances are being fixed. He said that at the Article X hearing at the fire hall he suggested that the board contact the Supervisor of the Town of Eagle to see how they structured their project. He asked if they did that.

Supervisor Engert stated that he did not contact the Supervisor.

Floyd asked if any communication has been made toward the wind projects in Wyoming County.

Supervisor Engert stated that communications are made concerning reading materials. He said he appreciates what Floyd presented tonight regarding the Town of Eagle and stated that he will look into it.

Herb Linderman said that zoning one acre industrial is a joke. He feels it should be at least 20 acres and should be based on the minimum number of acres needed per turbine. He asked if there is any mechanism to prevent APEX from selling to make sure the site is remediated by the new owner.

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Supervisor Engert stated that there is language providing for continuous protection of the town in the proposed local law.

Betty Wolanyk said that Richard Meyers stated at the public hearing that he has a letter from Verizon indicating that they would come here if we had wind turbines. She asked why he was in possession of that letter and feels it is town property.

On a motion of Councilman Alt, seconded by Councilman Dewart, the meeting adjourned at 7:55 P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk