

REGULAR MEETING
JUNE 10, 2015

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 June 2015.

Present: Daniel M. Engert ----- Supervisor
Gary R. Alt ----- Councilman
Robin R. Jansen ----- Councilwoman
Jeffrey M. Dewart ----- Councilman
Randall J. Wayner ----- Councilman
Tracy L. Carmer ----- Clerk
Michael M. Flint ----- Supt. of Highways
Melvin H. Denny ----- Supt. of Water/Sewer/Grounds
Michael J. Norris----- Counsel
Randy Roeseler----- Engineer

Absent: Mindy Austin ----- Confidential Asst. to the Supervisor

Attended by: numerous residents and Code Enforcement Officers Remington and Lee

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

RESOLUTION 78-2015

APPROVAL OF THE MINUTES

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 the minutes of the previous meeting are approved.

RESOLUTION 79-2015

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.

Councilwoman Jansen thanked Mindy Austin for the year-to-date sales tax figures.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer
Dog Control Officer
Police Report

QUARTERLY REPORT RECEIVED AND FILED:
Water/Sewer Report

COMMUNICATIONS:

Supervisor Engert received a letter from James Duvall, Director at the Department of Environmental Health. The letter was sent to all municipalities for a learning experience regarding the situation in Lockport where a contractor hooked up to a hydrant without authorization. They did not use a backflow preventer and it caused contaminated water to leach back into the water system. Water/Sewer Superintendent Denny explained our policy that requires all contractors to rent a meter and backflow preventer. Our employees hook them up so that we are confident they are installed properly. Our backflow preventers are inspected annually by Niagara County.

Supervisor Engert received two responses to the letters he sent out to banks requesting consideration for some level of service in Barker when Key Bank leaves. Cornerstone Community Federal Credit Union responded that they are assessing clients in our area and potentially may place a video kiosk in Barker. M&T Bank stated that this is not an ideal location for them to open a branch or an ATM. First Niagara Financial Group said that they are unable to consider a branch or other physical presence in Barker, but offered an opportunity to present seminars to our residents to teach them how to perform online banking.

RESOLUTION 80-2015

SCOPE OF SERVICES CONTRACT – WIND LAW COMMITTEE

Supervisor Engert stated that he would like to retain the services of our Planner, Andrew Reilly, to facilitate the Ad-Hoc Wind Law Committee.

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

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|---------------------------|---------------------|---------|
| ADOPTED by roll call vote | Supervisor Engert | Aye |
| | Councilman Wayner | Aye |
| | Councilman Alt | Abstain |
| | Councilwoman Jansen | Aye |
| | Councilman Dewart | Aye |

Resolved the Supervisor is authorized to enter into an agreement with Wendel for the facilitation of the local law committee project not to exceed \$20,000 in scope of services subject to attorney approval.

RESOLUTION 81-2015

CFA Grant

Supervisor Engert stated that a letter of intent was previously submitted and he is requesting a resolution for the next phase of the project to act as lead applicant.

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

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|---------|--------|-------------------------------------|
| ADOPTED | Ayes 5 | Engert, Wayner, Alt, Jansen, Dewart |
| | Nays 0 | |

WHEREAS, the Town of Somerset is actively participating in a study to determine the feasibility of joining together to form an Article 47 healthcare benefits cooperative with other municipal corporations and school districts in our region; and

WHEREAS, the feasibility study currently has twenty six (26) participating entities including the (LOCAL GOVERNMENT) and is nearing completion; and

WHEREAS, the Town of Somerset has not expended any direct funds to participate in this study to date; and

WHEREAS, if further participation is desired by the Town of Somerset after the study phase is complete and cost savings are predicted, the Town of Somerset and the participating entities desire to establish a funding source be in place in order to move forward in the next phase to establish an Article 47 healthcare benefits cooperative; and

WHEREAS, the New York State Department of State Local Government Efficiency Program provides competitive grants to local governments for the development of projects that will achieve savings and improve municipal efficiency through shared services and cooperative agreements;

RESOLVED:

That Daniel Engert, Supervisor of the Town of Somerset, is hereby authorized and directed to file an application for funds from the New York State Department of State Local Government Efficiency Grant Program for the 2015-2016 program year. This project, entitled the Western New York Region Municipal Healthcare Consortium Grant Project, involves the implementation of a healthcare consortium for local governments in Niagara and neighboring counties. The Town of Somerset, as lead applicant, will be responsible for executing all financial and/or administrative processes relating to the implementation of the project.

The Town of Somerset will enter into any necessary inter-municipal agreements with other involved governments. The grant request for this project shall not exceed \$250,000 and all local government co-applicants, including the Town of Somerset, will be responsible for the 10% cost share, with individual amounts to be agreed upon by the grant project participants.

RESOLUTION 82-2015

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:

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|--------------|-------------------------|--------------|
| General Fund | No. 195 through No. 235 | \$ 35,483.11 |
| Highway Fund | No. 59 through No. 71 | \$ 5,423.34 |
| Sewer Fund | No. 60 through No. 64 | \$ 1,510.82 |
| Water Fund | No. 54 through No. 61 | \$ 1,851.68 |

PRIVILEGE OF THE FLOOR

John Wolanyk stated that Wendel is a world-wide company and he has questions about them. He feels that the hiring decision should be made by the committee.

Dale Howard read two headlines from newspapers. He stated that chapter 205-13 of our town law regulates Commercial Wind Energy Conversions and he feels we should fight for this law through the legal process, not committees.

John Riggi commended the board for its actions for the initiation of the Somerset Commercial Wind Energy Local Law Ad Hoc Advisory Committee. He feels the work of this committee is critical to ensuring lawful and ethical behavior on the part of the Town and its constituents. He has communicated numerous times with APEX on this issue and stated that unless APEX is willing to take the initiative and sign the current Code of Ethics, the Town is exposed. Taylor from APEX told John that they have contacted the Attorney General's office and stated that they are willing to sign the code of conduct. SOS urges the board to continue to pressure APEX to sign the New York State Wind Industry Code of Ethics.

Dan Fitzgerald provided a status update for APEX. He stated that the project is in the early development stages, performing avian and bat studies. They continue to work with landowners and are assessing transportation routes. He expects to start talks with the Town soon for a PILOT with an estimated \$1.6 million for all the taxing jurisdictions. He stated that they are in the first of five steps, which is the pre-application stage. Tomorrow they are holding a telephone town hall for out of town residents. They are aware of residents' comments which will feed into the next step, which is the Public Scoping Statement. This will be put out for public review and comment. They will take the review and comments and work them back into a revised scoping statement. There are 41 topic areas that get studied including environmental, health, visual, cultural, engineering, communications. He expects the scoping statement to be released in late July or sometime in August. After this the application gets put together. The earliest the application will be submitted is 1st quarter 2016, and it depends on how much work has to be done based on the preliminary scoping statement. Dan apologized for not having specific answers, but the application will have all of the answers. He stated that they have been in contact with the Attorney General's office and are waiting for the document to sign.

Marcia Ray stated that it sounds like this may be a done deal. She wants the board to consider all of the consequences. She said we are a small town and we don't need any more development. There are a lot of trucks already and if we bring in more outside

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equipment we will destroy the town. She feels this doesn't benefit us and wants the board to be firm.

Jim Hoffman discussed parts of a letter from US Fish and Wildlife that was distributed at a previous meeting. The letter noted that we have significant avian activity in our area and they stated that APEX should consider whether this site constitutes an appropriate placement of the project in light of the current wildlife activity at this site. Jim remarked that the Town's Comprehensive Plan was designed to enhance the rural character of our town, and enhance and preserve the Ontario shoreline. He feels the wind turbines will not enhance the rural character of our town.

Jeff Gardner is pro clean energy and has solar energy at his home. He stated that it's ridiculous to put windmills directly across from Golden Hill State Park and he doesn't understand why they can't convert the power plant into a natural gas plant like Dunkirk. He stated that the homepage on the town website used to describe a quaint little town, welcoming people but has been modified to a town that welcomes new energy and technology to allow potential input of different industries. He said the Town needs to realize that there is a lot of waterfront property and those owners pay a lot of taxes and need to be protected. He stated that property values will be reduced by 50%, and asked if our taxes will be reduced by 50%?

Betty Wolanyk thanked the board for the survey and feels the majority of the questions are objective. She does not like the question regarding a substantial reduction in electricity costs because residents will think they are going to get free electricity, along with reduced taxes per the previous question on the survey. She stated that since 2008 electricity rates have risen less than 3%, but in the ten states generating the most wind power the rates have jumped on average over 20%. Betty advised that APEX can dictate when or if hunters may hunt on the land, even if it's the landowner. She stated that deer and turkey are leaving the areas with wind factories. She said that there isn't much research to document the fact, but you hear it over and over again. Her concern is that we don't know the specifics and wonders how we can make intelligent decisions on regulations. She said the company is known to propose a certain size turbine, then before construction they come in and change it to bigger turbines. Meanwhile the Town has set regulations based on the smaller turbine.

Paulo Oliveira stated he mailed a letter about the survey to town residents trying to inform them about what was going on. He is trying to figure out the benefit to the Town. He wants

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the board to say how much is offered by APEX, and wants to know what the town's policy is on wind farms: yes, no or neutral.

Supervisor Engert stated that there has been no communication to the Town offering any money. He said that tonight he heard an amount for the first time just like everyone else.

Agnes LaPort has been here for 35 years and loves this town. She has studied a lot about the windmills and is concerned what these will do for us in 50 years.

Janice Garnder wants the Town to consider a contract of 49 years. A generation is from 20-30 years. Many of the people here will not be alive when the contracts expire two generations from now. Our children will be left with it whether it is good or bad. She asked what the risks are and stated that the board is making a decision for the next two generations.

Don Lewicki stated that the project doesn't do any good for the residents and money isn't everything. He said the prayer at the beginning of the meeting talks about integrity and he feels the Town Board needs to step up and face the state and APEX and tell them where to take the project. He asked the Town Board what diligence they have done already regarding educating themselves.

Supervisor Engert stated that this is a public comment period and he would be happy to meet with Don and anyone else after the meeting to talk. He stated that at last month's board meeting they took significant steps to hear and address concerns by creating a committee to establish the laws to defend with the state. He encouraged the residents to keep coming out and watch the efforts of the committee. The board had voted to oppose the Article X process and doesn't like it any more than the residents do.

Randy Wayner stated that his family dates back to his great grandparents living in our town. He has love and concern for our town and he thinks it's counterproductive to get into specifics at this point. He stated the board is paying attention and staying relative to the process.

Gail Damon stated that on May 29th she watched a juvenile bald eagle for over an hour on her property. She also stated she took a survey via a phone call that was only three questions. It asked if she was aware of the project, if she was for or against the project, and why she was for or against the project. Gail was then advised of a town hall meeting and said she will receive a robo call at 6:00 to participate. She wants to know why other residents weren't called and given the same opportunity to participate. She also wants to know why APEX is doing a survey when the town was doing its own survey.

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John Wolanyk said that his 88 year old mother received the call from APEX and was told they are doing a study in Orleans County and Nigeria.

Patty Ray stated that at the April 8th meeting Paulo Oliveira asked if any Town Board members have read the APEX contract at any time previous to that evening. She said that every town board member shook their head no so Cathi Orr provided a copy of the contract to each board member. She stated that at the May meeting we found out that one of the board member's family members had already signed a contract. She said that seems concerning and she scoured the April minutes to review the responses of the members but couldn't find that communication within the board minutes.

Anne Moeller questions the reasoning of the board inviting APEX to be on the ad hoc committee. They are an out of state company and she feels it's out of place asking them to look out for our best interests.

Supervisor Engert stated that the board's intention is to be as comprehensive as possible knowing that the law will be reviewed by the siting board. He believes this will help our process of addressing the local law to be viewed as reasonable.

On a motion of Councilwoman Jansen, seconded by Councilman Alt, the meeting adjourned at 7:30 P.M. subject to the Call of the Clerk. Carried unanimously.

Tracy L. Carmer, RMC
Town Clerk