

TOWN BOARD REGULAR MEETING  
MAY 9, 2018

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 9<sup>th</sup> day of May 2018.

Present: Daniel M. Engert ----- Supervisor  
Robin R. Jansen ----- Councilwoman  
Jeffrey M. Dewart ----- Councilman  
Chris Bronson----- Councilwoman  
Jon Hotaling ----- 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  
Rob Klavoon ----- Engineer

Attended by: Approximately 30 residents and students

Supervisor Engert called the meeting to order at 6:00PM with the Pledge to the Flag and a prayer for guidance.

RESOLUTION 80-2018

**APPROVAL OF THE MINUTES**

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

ADOPTED: Ayes                5        Engert, Jansen, Dewart, Bronson, Hotaling  
              Nays                0

Resolved the minutes of April 11, 2018 be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement  
Police

RESOLUTION 81-2018

**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, Jansen, Dewart, Bronson, Hotaling  
              Nays                0

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

Brian Sibiga entered the meeting.

RESOLUTION 82-2018

**SEWER REPAIR PHASE TWO (QUAKER/HAIGHT)**

Brian Sibiga said this is for ongoing work to eliminate infiltration. It will allow more capacity and reduce cost. Proposals will be accepted until June 7<sup>th</sup> at 2:00PM at Wendel's office. Supervisor Engert stated that we have not received the grant yet.

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

ADOPTED: Ayes	5	Engert, Jansen, Dewart, Bronson, Hotaling
Nays	0	

**WHEREAS**, the Town desires to repair a 12" diameter gravity sewer and mechanically clean and install full cured-in-place pipe lining for a 240-ft long 15" diameter gravity sanitary sewer along Quaker Road and Haight Road; and

**WHEREAS**, the Town has retained Wendel to prepare an RFP for said repairs;

**NOW THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Somerset hereby authorizes Wendel to prepare and issue a written Request for Proposal to provide a 10-ft long spot cured-in-place pipe repair to a 12" diameter gravity sanitary sewer, as well as mechanically clean and install full cured-in-place pipe lining for a 240-ft long 15" diameter gravity sanitary sewer along Quaker and Haight Road.

RESOLUTION 83-2018

**LONNON ROAD CULVERT**

Highway Superintendent Flint stated that part of the road collapsed and he has closed the road. He is awaiting paperwork from the government before he can proceed.

Supervisor Engert said that we have to follow New York State regulations and that makes it more expensive.

Brian Sibiga gave kudos to our highway department. He said that materials alone for the job are approximately \$25,000 and with labor it would be approximately \$50,000 - \$60,000. He said that our highway department is doing the work with our own manpower to save us the labor cost. We are also upgrading to a larger pipe.

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

ADOPTED: Ayes	5	Engert, Jansen, Dewart, Bronson, Hotaling
Nays	0	

**WHEREAS**, the Town desires to replace the Lonnon Road culvert that collapsed on April 26, 2018; and

**WHEREAS**, Wendel has submitted a proposal to provide survey, design, permitting, and construction services for the culvert replacement project at a cost of \$15,500.00; and

**WHEREAS**, the proposal for professional services is 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 retains Wendel to provide survey, design, permitting, and construction services for the Lonnon Road culvert replacement pursuant to the terms of Wendel's proposal dated May 8, 2018; 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 84-2018

**INFLUENT PUMP REPLACEMENT**

Superintendent Denny stated that a 1997 15 horsepower pump broke and it will cost to more to rebuild it than to replace it. We would replace it with a 10 horsepower pump that will handle the same capacity using less power.

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

ADOPTED: Ayes	5	Engert, Jansen, Dewart, Bronson, Hotaling
Nays	0	

**WHEREAS**, the Town of Somerset Water and Sewer Department's 1997 15-horsepower influent pump broke on Friday, May 4<sup>th</sup> 2018 at the main pump station; and

**WHEREAS**, the cost to repair the existing pump would exceed the cost to purchase a new 10-horsepower pump; and

**WHEREAS**, the Town of Somerset has standardized Flygt pumps by resolution dated February 10, 2004; and

**WHEREAS**, Xylem Water Solutions USA is the only authorized dealer of Flygt pumps in Upstate New York and said company has provided information to the Superintendent of the Water Department indicating that it is the exclusive supplier for Flygt pumps; and

**WHEREAS**, the Xylem Water Solutions USA has supplied a quote for the sale of one new 10-horsepower Flygt submersible pump model CP-3127.182 for \$7,736.43;

**NOW THEREFORE BE IT RESOLVED**, that Xylem Water Solutions USA is found to be the "sole source" of Flygt pumps, which are necessary for the Town pump stations, and as such constitutes an exception to the Town of Somerset's Procurement Policy, and

**BE IT FURTHER RESOLVED**, that the Superintendent of the Water Department is authorized to purchase the 10-horse power submersible Flygt pump from Xylem Water Solutions USA for the amount of \$7,736.43 without the need to obtain three written quotes from three separate vendors.

RESOLUTION 85-2018

**INTERMUNICIPAL AGREEMENT**

Supervisor Engert stated he is appreciative of the efforts of the Town of Yates to consolidate resources to utilize the same law firm. The cost will be split 50/50 so Somerset is not bearing the brunt of the burden of the legal fees to represent the health, interest and welfare of the citizens.

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

ADOPTED: Ayes	5	Engert, Jansen, Dewart, Bronson, Hotaling
Nays	0	

**WHEREAS**, the Town of Somerset retained the law firm Lippes Mathias Wexler Friedman LLP in 2015 to represent the Town in the Article 10 Siting Process for the proposed Lighthouse Wind Project; and

**WHEREAS**, the Town of Yates also retained Lippes Mathias Wexler Friedman LLP in April 2018 to represent their interests in the same Article 10 proceeding; and

**WHEREAS**, sharing legal counsel with the Town of Yates will result in cost savings for the Town; and

**WHEREAS**, the Town desires to share legal fees with the Town of Yates generated by the law firm Lippes Mathias Wexler Friedman LLP for the participation in the Application of Lighthouse Wind LLC for a Certificate of Environmental Compatibility and Public Need pursuant to Article 10 to Construct a 201 MW Wind Energy Facility, Case No. 14-F-0458; and

**WHEREAS**, Article 8, Section 1 and 2-a of the New York State Constitution, as effectuated by General Municipal Law Section 119-o provides the Town the authority to enter into an intermunicipal agreement to share legal costs with the Town of Yates;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Supervisor is authorized to enter into an intermunicipal agreement with the Town of Yates to share legal costs generated by the law firm Lippes Mathias Wexler Friedman LLP for participation in the Application for a Certificate of Environmental Compatibility and Public need pursuant to Article 10; and be it further

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**RESOLVED**, the Supervisor is authorized to execute any and all documents in such form as is satisfactory to the Supervisor and Town Attorney, and take whatever other actions may be necessary to give effect to this resolution.

RESOLUTION 86-2018

**AUDIT OF CLAIMS**

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

ADOPTED: Ayes                    5            Engert, Jansen, Dewart, Bronson, Hotaling  
              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. 173 through No. 205	\$ 48,580.78
Highway Fund	No. 57 through No. 68	\$ 4,727.14
Sewer Fund	No. 51 through No. 59	\$ 2,286.59
Water Fund	No. 39 through No. 43	\$ 1,046.90

PRIVILEGE OF THE FLOOR

Pam Atwater said that some people believe that if we had more information from the developer we would not be opposed to the wind project. She said that it is obvious looking at the stipulations that there are a lot of intelligent people in this community. She said the document from APEX was really sloppy and she thinks it is shameful that we have to hear on the radio the size and scope of the project. On the radio Taylor said that there are 30 (or 40) to 50 turbines and they will be less than 600 feet. She is bothered that people are saying that those who are opposed just don't like to look at them and they are not used to not getting their own way. She submitted for the record a letter that she sent to the Attorney General two years ago regarding misinformation spread by APEX at a Sierra Club meeting. She provided some of the examples of lies and said it is disrespectful.

Norm Jansen thanked the board for appointing Laura Bishop to the Planning Board so the board is now full.

Jim Hoffman thanked the board for their support. He discussed a comment he heard on the radio that he feels is significant. He said that Dennis Vacco said (regarding their law firm) "they only represent those opposed and are principled in that matter." He said this is a complex, emotional project and he does not see how you could ever work both sides so he thinks Vacco and his firm will provide excellent work. He showed the board a picture of a blade trying to make a turn at a traffic circle in Hamburg on its way to Arkwright. The blade is 177 feet long and weighs 70 tons. This ties up traffic and he said the construction phase is not insignificant. He said it involves many other towns as they have to follow a heavy

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haul route that takes them way around to get there. He said we are a lakeshore community, but Arkwright has ridges and hills and many people may be able to hide from the turbines so that project is not relevant to our effort.

Supervisor Engert stated that the route length is 33 miles from where these are to where they need to go, but the route they need to take is over 100 miles.

Jim said today's mailing talks about PILOTs and municipal agreements. He said this may involve us giving up our right to process an Article 78. He said they list towns that are significantly smaller in population than ours. One town has 10 people per square mile, while Somerset has 60 people per square mile. He said that means there is less resistance.

Betty Wolanyk commended the people who have gone through the stipulations. She thanked the Town for submitting 25 pages of additional locations that need to be added to the list of visual impact sites. This raises the number of locations from 203 indicated by APEX to 642. She pointed out that the flyer APEX mailed out today says they have five wind projects in Wyoming County. From her examinations she had done recently she only recalled four projects so she did some more checking and ended up at the Wyoming County Business Center and it was confirmed that there are only four projects. She also did the calculation of the \$898,483 payments that were made to the schools over a 9 year period. She said that amounts to an average of \$99,831 to each school district and feels it is despicable. She talked about the frustration of not getting exact numbers or sizes of turbines from APEX. She stated that Taylor said on the radio that they will only be placing 30 – 50 turbines. She said that means there will be 20-40 fewer turbines which also means 20-40 fewer payments to the leaseholders. Also, while reviewing the Lighthouse Wind website, under FAQ #2 it states "The exact turbine model, size, and location will be presented in the Article 10 application, which will be open to agency and public review for at least a year." She would like everyone to get a screenshot and save it.

Steve Royce stated that on May 1<sup>st</sup> the Town Board of Hopkinton in Saint Lawrence County changed their wind turbine laws which effectively banned wind turbine projects in their town. The developer (Avon Grid) had their lawyers test the legality of the vote and in the end they chose to leave for a project with a clearer path to success. He hopes that will be our outcome with APEX.

Marcia Ray heard that APEX is selling to another firm.

Supervisor Engert said he sent a letter to APEX asking for a comment and received a reply that provided no comment.

Marcia said she is amazed at the wealth of our state that can afford to keep these projects going. On another subject she said there was a pig loose on Lake Road and asked if they found the pig.

Supervisor Engert said he will check.

RESOLUTION 87-2018  
**EXECUTIVE SESSION**

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

ADOPTED: Ayes                5        Engert, Jansen, Dewart, Bronson, Hotaling  
              Nays                0

Resolved to enter into execution session at 6:34PM to discuss potential litigation with our attorney.

RESOLUTION 88-2018

**RETURN FROM EXECUTIVE SESSION**

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

ADOPTED: Ayes                5        Engert, Jansen, Dewart, Bronson, Hotaling  
              Nays                0

Resolved to exit executive session at 6:45PM.

On a motion of Councilwoman Jansen, seconded by Councilwoman Bronson, the meeting adjourned at 6:47P.M. subject to the Call of the Clerk.

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Tracy L. Carmer, RMC  
Town Clerk