

REGULAR MEETING
SEPTEMBER 9, 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 9th day of September 2015.

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

Absent: Jeffrey M. Dewart ----- Councilman
Randy Roeseler----- Engineer

Attended by: numerous residents

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

RESOLUTION 98-2015

APPROVAL OF THE MINUTES

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 minutes of the previous meeting are approved.

RESOLUTION 99-2015

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

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 Supervisor's Monthly report be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer
Dog Control Officer
Police Report

COMMUNICATIONS:

Supervisor Engert read a letter that he sent to Governor Cuomo urging the governor to rethink the Article X process and return Home Rule power to the local communities. (copy attached)

Supervisor Engert read a letter that he sent to Gerry Geist, Executive Director of the Association of Towns, asking him to get more involved in preserving municipal home rule. (copy attached)

RESOLUTION 100-2015

NYS DOT STUDY

Clerk Carmer read a letter received from NYS Department of Transportation in response to the Town's request for a traffic investigation at the intersection of Hartland and Lake Road. They determined that lowering the speed limit would result in larger speed differentials making the road less safe so they will not reduce the speed limit at this time. However, they are going to replace the Intersection warning signs on Lake Road with larger signs and install 45 MPH advisory speed subpanels on them. They are also going to post a second Stop sign and second Stop Ahead sign on the left side of Hartland Road for both northbound and southbound traffic, as well as installing subpanels reading Cross Traffic Does Not Stop to each Stop sign. They will also install Stop lines on the northbound and southbound Hartland Road approaches to Lake Road.

Councilman Wayner stated that NYS struck a good balance between data and common sense in this decision as most of the problem is visual as opposed to speed.

Supervisor Engert stated that the road is a State road and is under the State's authority.

Councilman Alt asked if the homeowner would be willing to push the trees back further.

Supervisor Engert stated that the property is for sale. Supervisor Engert and Councilman Alt will visit the homeowner together.

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

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

Resolved to thank Niagara County Legislator Syracuse, Commissioner Kevin O'Brien, and the NYS Department of Transportation for their expedited review and determination on the intersection of Route 18 and Hartland Road and further request expedited placement of signage in that area.

FEE WAIVER REQUEST

Supervisor Engert stated that a resident is requesting a Zoning Board fee of \$175 to be waived.

Councilman Wayner stated that relief should be possible, but the fees not be waived because the nominal charge should be borne by the resident receiving the benefit and not by all of the taxpayers. He suggested the Planning Board and Counsel review the sections of Town Code pertaining to this matter, specifically §205-11(J) and §205-34(C).

Councilman Alt concurs.

Councilwoman Jansen agrees and stated that her first thought was to turn it over to the Planning Board.

Supervisor Engert asked Attorney Norris to take the issue to the next Planning Board meeting.

RESOLUTION 101-2015

PARTICIPATION IN NYS & LOCAL POLICE AND FIRE RETIREMENT

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

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

BE IT RESOLVED that the Town Board of the Town of Somerset does hereby elect to participate as an employer in the New York State and Local Police and Fire Retirement System and approves inclusion of its officers and employees in such system, in accordance with any and all of the laws governing such participation as set forth in the Retirement and Social Security Law, as presently or hereafter amended, together with any administrative rule, regulation or directive governing same.

BE IT FURTHER RESOLVED that the effective date of such shall be the 9th day of September, 2015.

RESOLUTION 102-2015

NYS & LOCAL POLICE AND FIRE RETIREMENT 375C & 375E

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

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

BE IT RESOLVED that the Town Board of the Town of Somerset does hereby elect to provide the additional pension benefits of Sections 375-c and 375-e of the Retirement and Social Security Law for police officers and paid firefighters, as presently or hereafter amended.

BE IT FURTHER RESOLVED that the effective date of such shall be the 9th day of September, 2015.

Supervisor Engert thanked his assistant, Mindy Austin, for getting this resolved.

RESOLUTION 103-2015

SPECIAL COUNSEL AUTHORIZATION

Supervisor Engert reviewed the steps taken so far in the siting process and stated that the board recognizes that this is the appropriate time to engage special counsel. Our attorney has worked diligently with us on this without additional legal fees but specialized counsel is now needed. The pre-application submission from APEX will be filed soon and upon that filing, intervenor funding is available to the Town to cover legal fees not associated with litigation. Obtaining the special counsel at this stage brings them in from the start of the pre-application phase. Supervisor Engert stated that we have had no response from the government on our request for additional time to review the PSS which could be 700-1,000 pages long. He thanked our town attorney for his extensive efforts on this issue and taking on additional work. Supervisor Engert announced that after a thorough search, the Town

Board would like to hire Dennis Vacco. Dennis is a former NYS Attorney General and former US Attorney for the Western District of New York. His law firm of Lippes, Mathias, Wexler Friedman LLP is a solid, reputable firm and Dennis' name brings instant credibility. Councilman Wayner supports the appointment.

Councilwoman Jansen stated this is the logical next step.

Councilman Wayner stated that as a former Attorney General Dennis knows his way around Albany and can provide the expertise needed.

Supervisor Engert stated that he has spoken to Councilman Dewart who is absent from today's meeting, and he advised that Councilman Dewart is in favor also.

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

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

Resolved the Town enter into a retainer agreement with Dennis Vacco and the firm of Lippes, Mathias, Wexler Friedman LLP regarding the proposed Lighthouse Wind project.

RESOLUTION 104-2015

AUDIT OF CLAIMS

Supervisor Engert stated that he appreciates Councilwoman Jansen's suggestion to sign off when reviewing the claims so that we have a date of review for the record.

On a motion of Councilman Alt, 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:

General Fund	No. 306 through No. 339	\$ 32,192.23
Highway Fund	No. 106 through No. 117	\$ 46,407.44
Sewer Fund	No. 90 through No. 105	\$ 4,907.21
Water Fund	No. 82 through No. 87	\$ 3,053.88

PRIVILEGE OF THE FLOOR

Cathi Orr said that Dennis Vacco is a marvelous choice.

Jim Hoffman likes the board's aggressive approach and asked if there are other municipalities that will join us.

Supervisor Engert stated that he hasn't received a response yet from the Association of Towns. If he doesn't get responses, he will contact former Clerk Becky Connolly who has connections with the Association.

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Jon Hotaling addressed the board asking them to consider a position on the spreading of equate. He also asked for an update on the solar project that Supervisor Engert mentioned at a meeting a couple of months ago.

Supervisor Engert stated that it is dormant at this time.

Jon stated that his other concern is the horrendous traffic on Lake Road with busses and tractor trailers and school is in session.

Supervisor Engert stated that we will act on it immediately.

Betty Wolanyk stated that she has seen signs that say fear not the wind and said that hse is not afraid of wind, but the turbines. She reviewed previous issues she brought before the board. She is concerned with homeland security and military preparedness because of the impact the turbines will have on radar. She stated that the Department of Defense was told to stand down because the President is in favor of it.

Supervisor Engert said that he is meeting with NIMAC in October regarding radar. He also advised that her comment on the Department of Defense is true. He stated that the FAA is currently holding hearings to not require all turbines to have lights. If the turbines are lined up, only the first and last ones would be required to have lights.

MaryLou Fischer said a resident who owns at Haight Road and Hartland Road lives in Wilson and stated that he likes the money and doesn't care about green energy.

Agnes LaPort stated that a wind turbine supporter told her that Cathi Orr is fake. She also talked about the power plant closing and the school losing \$3million.

Supervisor Engert stated that he will have good news soon on the plant and can generally dispute that rumor.

Supervisor Engert stated that he met with another individual working with a solar company looking for land in the WNY area for projects. He is interested in Somerset but the land he was looking at didn't have 3 phase power so Supervisor Engert is meeting with the plant tomorrow to discuss options.

Jim Hoffman stated that solar is not the answer.

Supervisor Engert stated that the Town is in a predicament as we will be looked to regularly because of our access to the grid.

Krista Atwater asked for an update on high speed internet.

Supervisor Engert spoke regarding the NORA initiative. He said a sizeable amount of money is needed to put forward and we are trying to get the governor to give Department of Education funding for it. The governor hasn't made a decision yet and the issue is not dead.

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Krista read an article in the NY Times about changing internet to a utility.
Supervisor Engert stated that the real problem is funding and he will keep fighting for the initiative.

Krista said they are not giving us the basics of life (internet, natural gas) but want us to have windmills.

Betty Wolanyk stated that USDA Rural Development may have funds available and we should talk to our State Legislators.

RESOLUTION 105-2015

EXECUTIVE SESSION

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

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

Resolved to enter into Executive Session to discuss labor negotiations at 7:34PM.

RESOLUTION 106-2015

RETURN TO REGULAR SESSION

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

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

Resolved to return to Regular Session at 8:03PM.

On a motion of Councilwoman Jansen, seconded by Councilman Wayner, the meeting adjourned at 8:04PM subject to the Call of the Clerk. Carried unanimously.

Tracy L. Carmer, RMC
Town Clerk