

TOWN BOARD REGULAR MEETING
JUNE 8, 2016

A Public Hearing and 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 8th day of June, 2016.

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

Absent:

Attended by: approximately 70 residents and students

Clerk Carmer read the Notice of Hearing

Supervisor Engert called the Public Hearing to order at 6:32PM with the Pledge to the Flag and a prayer for guidance.

PUBLIC HEARING LOCAL LAW #4-2016 RPTL 487 OPT OUT

Supervisor Engert stated that comments during the public hearing should relate directly to the local law and its relevance.

Pam Atwater from Somerset said that she supports the local law and feels it puts the Town in a stronger position if a PILOT is proposed for the Lighthouse Wind Project. She stated that many residents are no longer considering investing in their property as it may be worth less in the future. She said that because of Article X the Town is not left with a lot of options so why would we maintain a property tax exemption that would potentially benefit Apex.

Cathi Orr from Somerset said that she agrees the Town should opt out of the exemption. In Wyoming County there are 5 towns with wind projects, and speaking directly of Sheldon, she said that little goes to the Town. She has also put projects at her home on hold. She said the PILOT is a bad idea and they should pay their fair share.

Randy Atwater from Somerset said that he supports the local law. He said that Barker Central School adopted an Opt Out resolution in May, and Lyndonville School and the Town of Yates have also adopted Opt Out resolutions. Our Town, School and County have

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mixed experiences with PILOTS and stated if the project proceeds he would prefer that it be taxed on the full value of the installation.

Dick Ray from Somerset said the he supports the Local Law. He thinks it is inappropriate to give tax abatement when most of the community is against the project.

Dawn Riggi from Yates supports the board and said that if Apex is successful they will make millions on taxpayer funded subsidies so they should not get more tax relief. She said the only ones who should get the tax breaks are the residents who lives are negatively impacted by the project.

Kathy Evans from Yates said that she supports the law so wind companies pay their fair share to offset the negative impacts.

Jim Hoffman from Somerset said that he is generally supportive especially for large industrial wind and solar farms. He wants the board to pressure the County to Opt Out.

Marcia Ray from Somerset agrees and said this might give us empowerment to voice our concerns. She is tired of everyone outside telling us what we can and cannot do.

Jim Simon from Yates stated that the Town of Yates Opted Out prior to January when he became a member of the Board. He said the decision is neutral, but protective to the residents. It is neutral because we have not declared that we will not negotiate a PILOT, we have just strengthened our position to negotiate a PILOT if it comes to that. He said it makes a lot of sense. A number of legal reviews have been done and many towns and schools have opted out.

Kate Kremer from Yates agrees with all of the comments made. She discussed the criticism of the Buffalo Billion for Federal and State subsidies, and said that Apex will also receive subsidies so we do not need to double fund them with additional tax breaks. She stated that some residents feel this may deter some from being involved in solar projects and said that some Somerset and Yates residents are receiving solicitations for solar project leases. The Town of Yates has had an Opt Out on the books since 2008 so she feels that did not deter the industrial projects from coming to our towns. She also discussed bio-digesters for farms that are large enough to afford them and said that this does not prohibit the Town from engaging in conversations with them. She said future talks are not a reason to not opt out now.

Agnes LaPort from Somerset said that she agrees with the opt out.

Chris Bronson from Somerset said that Niagara County pays the second highest property tax in the nation so she doesn't feel that we should be supporting Apex with more breaks.

Betty Wolanyk from Somerset said that she is in favor of the Town opting out of a PILOT agreement. She resents Apex stating that they would provide a \$1.6million PILOT before any discussions have taken place. She wants the Town Board to encourage the county to reject a PILOT that would most benefit the IDA.

John Wolanyk from Somerset supports the Town opting out. He feels they should pay their fair share for disrupting our lives. He stated that he received a letter from a solar company offering him \$1,500/acre for 20 years and he is not considering looking at any contracts now.

Jim Ferington from Somerset said that he agrees with everyone and wants the Town to opt out.

Supervisor Engert closed the Public Hearing at 6:50PM.

Supervisor Engert opened the Regular Meeting at 6:51PM.

RESOLUTION 98-2016

APPROVAL OF THE MINUTES

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

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
 Nays 0

Resolved the minutes of the previous meeting on May 11, 2016 are approved as submitted.

RESOLUTION 99-2016

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

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

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
 Nays 0

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

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer
Police Report

COMMUNICATIONS:

Clerk Carmer stated that we received a letter from Spectrum advising us that they (Charter Communications) have completed their transaction to purchase Time Warner Cable.

Clerk Carmer also advised that the Town received an invitation to attend the Baccalaureate Service hosted by the Barker Senior High Class of 2016 on June 23rd at 7:00PM at County Line Methodist Church.

RESOLUTION 100-2016

LOCAL LAW TO OPT OUT OF NEW YORK STATE REAL PROPERTY TAX LAW SECTION 487 EXEMPTION

Councilman Wayner stated that for several years, the board has trimmed costs along with employees and department heads reducing their budgets. He said that on the revenue side the exemption would have to be made up the rest of the taxpayers. He provided examples of exemptions that are applied that are mutually beneficial to our community, but said in the case of RPTL 487 there is no balance. The vast majority of Somerset taxpayers would not benefit. He stated that when a resident improves their home, they are assessed accordingly and feels that wind turbines, bio-digesters, etc should also be assessed.

Supervisor Engert stated that he feels this is about having the ability to leverage negotiations and he sees this strictly as a business decision.

On a motion of Councilman Wayner, seconded by Councilwoman Jansen, the following local law entitled "A Local Law to Opt Out of the New York State Real Property Tax Law Section 487 Exemption" is hereby

ADOPTED by Roll Call Vote:

Supervisor Engert:	Aye
Councilman Wayner	Aye
Councilman Alt	Abstain
Councilwoman Jansen	Aye
Councilman Dewart	Aye

Be it enacted by the Town Board of the Town of Somerset as follows:

Pursuant to New York State Real Property Tax Law Section 487(8) (a), the Town of Somerset, New York does hereby provide that no exemption from taxation shall be applicable with respect to any solar or wind energy system or farm waste energy system.

This Local Law shall take effect immediately upon filing with the Secretary of State.

RESOLUTION 101-2016

POSTPONEMENT OF 2016 SUMMER SEWER CREDIT

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

ADOPTED: Ayes	5	Engert, Wayner, Alt, Jansen, Dewart
Nays	0	

Resolved the 2016 Summer Sewer Credit be postponed to the third quarter.

RESOLUTION 102-2016

MANHOLE REHABILITATION PROJECT

Superintendent Denny said that upkeep needs to be done on 8 manholes because there is mixture that destroys the concrete inside. He obtained 5 quotes and the bids came in under budget ranging from \$17,800 to \$37,425. Our engineering firm has worked with United Survey and said they are a reputable firm. The attorney also recommends the firm. At the next meeting Superintendent Denny will have quotes for phase 2 (camera work.)

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

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
 Nays 0

Resolved the low bid of \$17,800 from United Survey Inc be accepted

Supervisor Engert thanked Superintendent Denny for being attentive to work being done in surrounding areas to realize some savings.

RESOLUTION 103-2016
SOLAR PROJECT UPDATE

Supervisor Engert stated that he was made aware last Wednesday that three residents have received correspondence from Cypress Creek inquiring about leasing land for a solar farm. The acreage ranges from 20 acres to 70 acres each, so it is a fairly large project. He stated that he has not had any communications from this company. The Town does not have regulations on the books for Industrial Solar so Supervisor Engert suggests that we adopt some regulations. He is aware that Attorney Norris drafted solar regulations for Lockport and Engineer Sibiga attended a solar conference and perhaps we can use that information to enhance Lockport's local law.

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

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
 Nays 0

Resolved the Town Attorney and Engineer work on the law and turn it over to the Planning Board for evaluation at their July meeting who will then return it back to the Town Board by their September meeting.

Councilwoman Jansen agrees that it should be a short time frame.

Councilman Wayner agrees we should piggyback on Lockport's law rather than reinventing the wheel.

RESOLUTION 104-2016
BARKER FIRE DEPARTMENT MEMBERSHIP

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

ADOPTED: Ayes 5 Engert, Wayner, Alt, Jansen, Dewart
 Nays 0

Resolved Erin Hotaling is approved for membership in the Barker Fire Department.

RESOLUTION 105-2016
AUDIT OF CLAIMS

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On a motion of Councilwoman Jansen, seconded by Councilman Wayner 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:

General Fund	No. 190 through No. 229	\$ 37,444.65
Highway Fund	No. 72 through No. 78	\$ 3,121.87
Sewer Fund	No. 58 through No. 70	\$ 3,508.72
Water Fund	No. 41 through No. 44	\$ 789.15

PRIVILEGE OF THE FLOOR:

Jon Hotaling representing the Herbert W. Carr Post #425 American Legion Post thanked the Town for their support for the Memorial Day Service, particularly Supervisor Engert and Superintendent Denny.

Bob Verheyn mentioned that there are new faces in the audience since summer residents have returned. He thanked the board for adopting the law.

Dick Ray said he is concerned that it will not take as long for the wind turbines as it did the Power Plant to become obsolete and we will be stuck with 70 towers with flashing lights not doing anything. He wants to make sure things are in place to have the company take down the wind turbines when they become obsolete.

Marcia Ray said this process is exhausting and she appreciates Supervisor Engert's work on this issue. She said we will not stop this fight. She talked about the transport vehicles on the road and doesn't feel it will allow outside activities like biking. She is sick of sacrificing and will continue to support the board.

Jim Hoffman stated that industrial solar has some of the same problems as wind. They are ridiculously subsidized and very space hungry. He suggested moving with caution if you are presented with a lease. He said there are also bird affects as they see the panels and think they look like water.

Cathi Orr thanked the Town Board for caring. She said that Wyoming County is suffering extreme economic hardship and the wind turbines have caused tax base erosion. She said solar will do the same thing.

Wally Coates spoke as President of the Barker Fire Department. He spoke about the membership aging and said the panels create a hazard. He would like to see more done in the community for training of the firemen. It could help save their lives or someone else's.

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Agnes LaPort said that people are visiting from Germany, but they will not visit if there are turbines.

Bernadette McGuire from Somerset Drive said in other wind projects if there were settlements they had gag orders not to talk about it. She suggests in our negotiations that we say they cannot put gag orders on settlements or science.

Kate Kremer said she encountered some research on solar. She stated that Industrial is different from residential, and the newest industrial panels operate with a toxic fluid running through it. She cautions that the board reviews the different types of solar panels when looking at the law.

Taylor Quarles thanked Pam Atwater, SOS, Supervisor Engert and Councilman Wayner for their participation in meetings regarding the siting clearing house. He looks forward to other meetings with open dialogue. They continue to work through the stipulations process. He reminded the board that they continue to have office hours and will meet with anyone.

Supervisor Engert asked Taylor if he has any comment on Apex' motion today to oppose Somerset's motion to require that the Administrative Law Judges issue a ruling in writing.

Taylor said he has no comment at this time.

Betty Wolanyk said it took more than a year to get Apex to sign the code of conduct which was supposed to increase transparency. Also Article X is supposed to protect citizens and provide transparency. She is incensed at the current stage Article X is in right now. It is a secret stipulations process and the public cannot be involved until all of the negotiations are done. That means there is no transparency. She said it would ensure science, studies, amount of electricity actually produced, etc. would no longer be proprietary and people worldwide would be able to evaluate if the turbines are good or bad. Regarding the solar law, she said to think about dismantling the panels and what kind of toxic waste would be there as well as the rare Earth minerals that will be in the solar panels. She thinks they are even a greater issue than wind turbines.

Mike Basil commended the board for passing the law. Regarding decommissioning, he said that we are a watershed and everything drains to the streams and lake. The turbines have a lot of concrete and residents are not allowed to put concrete along the shoreline because of acid wash. He also said that we get almost 100% of our energy from Robert Moses, yet our backs are against the wall to put in more clean, renewable energy. He thinks the need should be addressed. He asks how much of our tax money is going to this project. He keeps coming up with 60% - 80% of this project being funded with tax money, meaning millions of our dollars are going into this project. As taxpayers funding this, he says we should know how much is going into it. He said the beginning of Article X is designed to protect us from unethical wind companies. We and Apex think each other is spreading

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misinformation. He said we should research into the information that Apex is omitting, like the fact that these will cast a 6 mile shadow and how did they not tell us this, along with other things. He said that Apex is currently fighting lawsuits and said that Apex should tell us what situations are being caused in the other towns so we have a right to avoid them.

Marcia Ray said her concern with being invited to Apex office is that you get written down as a concerned citizen and they change the facts.

John Wolanyk read part of an Apex contract that states that land owners are responsible for shadow effect, not being able to use their land due to causes of the turbines, etc.

Bob Verheyen stated there was an article in the Union Sun & Journal that the project is unlikely to bother airplanes. He said the article was written by the Vice President of Apex.

Taylor Quarles replied that the article was written by a retired colonel who was Vice President of Apex for two years, he is no longer. He is now a consultant and he had 27 years of military.

On a motion of Councilman Wayner, seconded by Councilwoman Jansen, the meeting adjourned at 7:40P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk