

REGULAR MEETING
MARCH 11, 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 11th day of March 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
Melvin H. Denny ----- Supt of Water/Sewer/Grounds
Mindy Austin ----- Confidential Asst. to the Supervisor
Randy D. Roeseler ----- Engineer
Brian D. Seaman ----- Counsel

Absent: Michael M. Flint ----- Supt. of Highways

Attended by: numerous residents and a few BCS students

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

PUBLIC HEARING
Lakeshore Residential Accessory Building

Notice of said hearing was sent to the Lockport Union-Sun & Journal on February 25, 2015 with same notice being posted on the same date at the Town Hall and on the website.

Supervisor Engert opened the hearing at 6:33PM.

Clerk Carmer read the notice of hearing.

Dale Howard, 8663 Huntington Beach – informed the board that since he purchased his home in Somerset 12 years ago he abided by the building codes and obtained the necessary permits. He purchased a lot in 2005 on Lakeview Drive kitty corner to his home on Huntington Beach. Over the past few years he has discussed multiple plans to develop the property and was given a negative response from Code Enforcement every time. His plans ranged from \$500 to \$225,000 and were rejected because he was required to build a 1,000 square foot home in front of any accessory structure and he doesn't need another home at this time. He cannot combine his two properties because he cannot merge properties across roads according to the Town Assessor. He applied for a variance and paid the fee in 2013 to place an accessory structure on the property and the Zoning Board of Appeals denied his application. At the June 15 2014 meeting of the Planning Board he expressed his concern that he owns property on the corner near his home, but it is not

TOWN BOARD MEETING
MARCH 11, 2015 PAGE 2

technically on the same road and he asked the board to re-look at that stipulation. The proposed resolution does not address his situation and leaves him out. He would like the words "same road" replaced with "within 500 feet" to include him. If he remains excluded, he has proposed alternate plans that include taking down 24' of fence at his home and replacing it with cement bollards on the property line with flat work extension of his driveway to the bollards. This would allow for parking of an enclosed trailer or the erection of a \$159 portable canvass structure. He also would move a wood pile to the south side of a boat house in front of a home he has access to on Lakeview Drive and trim trees to accommodate an enclosed trailer and the erection of a \$159 portable canvass structure on the property line where the wood pile was. This plan would block a lake view. Dale stated he has been patient and abided by all codes during the whole process and feels adherence to rules and regulations makes a community strong. He also feels inclusion, not exclusion, makes for a strong community. He is requesting parity with his neighbors in the Lakeshore District and stated the structure he would erect would rival most homes in appearance.

James Hoffman, 8737 Lake Road – submitted a letter to be read by Clerk Carmer since he could not attend the hearing. He stated that the lakeshore area is a special residential place and has been treated as such by the implementation of zoning laws, the Town Wide Comprehensive Plan and the Local Waterfront Revitalization Plan (LWRP). He stated that much time, effort and taxpayer dollars have been spent on these policies and approval of the proposed amendment would move the town in the wrong direction. He feels that it is rare that a Special Use Permit gets rejected and it would be easy to obtain a permit to place an accessory building on an open lot. Jim stated that the proposed change also ignores those who have complied with the ordinance at great expense as it currently exists. He feels the proposed amendment is not consistent with the Town Comprehensive Plan and other policy documents that establish how the lakeshore area is to be developed. He asks for the proposed amendment to be rejected.

Paulo Oliveira, 8661 Huntington Beach – asked if Jim Hoffman owns property on their street. He stated that Dale does not do anything cheap and should have the right to do it and we can tax him.

Paul Higgins, 8735 Lakeview Drive – asked if this change will effect if someone wants to put up a 1,000 square foot of living space with a garage, will it have to be set back 100' instead of the current 50'.

Supervisor Engert stated that he will look into it and get back to him as this is a public comment period, not for interpreting previous laws.

Paul stated that he wants to put up a house, not a utility building. Can he still do that or has that been replaced with this new proposal?

Supervisor Engert said no, this only changes the section of the regulation that Clerk Carmer read.

Mel Denny, Supt. Water/Sewer/Grounds – is concerned that once an accessory building is put up, then they will want a garden which requires water. With a water hookup, comes a

TOWN BOARD MEETING
MARCH 11, 2015 PAGE 3

sewer hookup and now you have a 900 square foot building that can't be hooked up to sewer. We have already had problems with an accessory building that was put up and has been added on to, and now it is big enough to hook up to sewer but they don't want to. If someone just wants irrigation, he can supply water for that. But that won't stop someone from installing a sink. And once a sink is in, it's considered a sanitary unit that must go into the sewer. We already have one service shut off because they installed a sink and have soap running into the ditch. He wants the board to be careful where they go with this.

Paulo Oliveira asked if this is via a special permit.
Supervisor Engert stated that this is a town wide zoning policy, not specific to one person. Paulo stated that the only one being effected on the water side is Dale. And he has water and sewer right there so it would only be 25' to tap into it.

James Ferington, multiple addresses on Lakeview Drive – stated that he is happy with the potential ability to place an accessory on the south side, but wants Dale to be included.

Richard Meyers, 8408 Lake Road – he would like to see some explanation why this came about and why a law is being changed that is currently on the books.

With all persons desiring to be heard, Supervisor Engert closed the hearing at 6:50PM.

REGULAR MEETING

Supervisor Engert opened the meeting at 6:51PM.

RESOLUTION 49-2015

APPROVAL OF THE MINUTES

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 minutes of the previous meeting are approved.

RESOLUTION 50-2015

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

On a motion of Councilman Alt, 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.

MONTHLY REPORTS RECEIVED AND FILED:

- Code Enforcement Officer
- Dog Control Officer
- Police Report

ANNUAL REPORTS RECEIVED AND FILED:
Kennel

COMMUNICATIONS:

Clerk Carmer read an email that she received from ElderImpact making the board aware that their organization is trying to reach seniors (and their caretakers) who are affected with depressive disorders. Clerk Carmer stated that she passed the information along to JoAnn Greenwald, our Senior Citizen Director.

Supervisor Engert asked Clerk Carmer to post it on the Town website also.

Clerk Carmer read information on an upcoming open house for Lighthouse Wind. It is being held on Wednesday, April 1st, at the Barker Fire Department from 4-7PM. This will give you a chance to share your feedback and get your questions answered.

Notification of another open house was also read by Clerk Carmer. Recruit NY is an open house being held by the Barker Fire Department on April 26th from 11AM-2PM. This gives our citizens an opportunity to learn more about the volunteer fire service in our community.

RESOLUTION 51-2015

RECYCLING SERVICE AGREEMENT

Supervisor Engert advised that the county negotiated with SunnKing for a reduced rate for participating towns.

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 that the Supervisor is authorized to execute the contract with SunnKing.

LAKESHORE SITE UPDATE

Supervisor Engert stated that we have had challenges with electrical capacity for certain users so he met with National Grid, NYSEG and power plant operators to brainstorm.

There are options for smaller uses and there are some grant opportunities with National Grid to study infrastructure. As he gets more information on the grant, he will share it with the board.

FREE HEALTHCARE CLINIC

A physician who lives in Somerset contacted Supervisor Engert to discuss a vision he has to provide free healthcare to give back to the community when he retires. Details are not complete but would probably be a couple hours per week and free (or donation) to low income residents.

SECURITY SYSTEM UPDATE

Superintendent Denny stated that last year the small monument was tipped over and broken and cost \$1,400 to repair. Also, the batting cage building was damaged by a knife.

He discussed security options with Jim Benoit of Benoit Security, a Somerset resident. We are going to install two cameras, with one facing the tank and the other facing the batting cages, and possibly cameras for the highway buildings.

Supervisor Engert stated that it's within purchasing rules for the town but Superintendent Denny wanted to bring the board up to date.

Superintendent Denny said that Jim has already started replacing the number pads at the wastewater treatment plant.

Councilman Dewart stated that Jim gave us a good price.

Supervisor Engert stated that it is state of the art equipment.

Superintendent Denny said if the board pleased, he would like to enter into a contract.

Supervisor Engert told him he is within the guidelines so he can go ahead.

ANNUAL TIRE DROP OFF

Modern advised us that they no longer offer tire pickup. The Town still wants to offer this benefit to our residents so Supervisor Engert and Superintendent Denny will find other options. The tire pick up is not part of our recycling contract.

RESOLUTION 52-2015

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:

General Fund	No. 82 through No. 120	\$ 51,104.05
Highway Fund	No. 20 through No. 35	\$145,831.93
Sewer Fund	No. 25 through No. 31	\$ 2,274.83
Water Fund	No. 23 through No. 30	\$ 2,690.46

PRIVILEGE OF THE FLOOR

Jon Hotaling stated he thinks the recycling company on Ohio Street in Lockport took over the tire recycling from Modern. He also asked for an update on Barker Chemical.

Supervisor Engert stated he still has not received a final report.

Jon wants to know if the town has considered looking at Equate as some residents have been approached. He thinks we should not allow it.

John Riggi, President of SOS thanked Supervisor Engert for his emails. He stated that the Town has more opposition now so they will be coming to more meetings and signs are starting to be put up.

Supervisor Engert stated that the board welcomes the interaction and comments.

Cathi Orr commented that they brought residents with them. She stated that 570' tall turbines are going to affect towns other than just Somerset as they can be seen far away.

Paulo Oliveira stated that he is originally from Boston and fought this in Massachusetts, losing all of the lawsuits. They then went after the electric company that was buying the power and the company ended up cancelling their proposal. He said if we need a certain number of residents' signatures to get this stopped, he is willing to get the signatures.

Don Stoll stated that an article in the USA Today had a statement from Supervisor Engert saying that local residents largely support the project. He doesn't think the Supervisor lobbied enough residents to make that statement. He would like us to find out what scientific evidence there is to support turbines.

John Wolanyk has an unsigned contract with APEX and will not be signing it. He did research and is upset after viewing testimony and wants the board to do research. His attorney said that when the turbines are close to a house it creates a low volume wave that goes through your house and makes some people sick. He asks why ruin our community? He thinks they are way too big and he was told they are trying to catch wind coming off of Lake Erie. He feels it is corporate welfare and APEX will be the one benefiting the most. John distributed guidelines for NY Ag & Markets to the board members. The biggest issue he has in his contract is that APEX will not be liable if he cannot grow crops or livestock on his property and soil compaction. They will not be responsible for flicker, etc. attributed to operation of windmill facilities. The setback if he signs is 200'. He wants to know what the setback is if he does not sign. His contract also has a gag clause. John would have the contract for 49 years, but the company can get out of it at any time with 60 days' notice.

Gail Damon stated that she and her husband are opposed to APEX installing wind turbines in our town. They are surrounded by farmland whose owner has signed a preliminary contract and feels they need a voice since they are going to be directly affected by it. She is concerned about their health and property value. She asks how the wind turbines will affect the power plant once they are operational. She can view at least 30 homes from her house that will be affected by one farmer. The farmer will receive a yearly benefit, and she wants to know what benefit she will get. She would like to know how many board members will be living in an area where the wind turbines will be.

Chris Bronson is opposed to the wind project. She enjoys coming here from her job in Williamsville because it is quiet and she can hear loons, tree frogs, etc. She is upset if she has to come home and listen to wind turbines. She is appalled that this is being done while most of the summer residents are not here. Chris stated that many properties will be

TOWN BOARD MEETING
MARCH 11, 2015 PAGE 7

turning from agricultural to industrial. She feels this will be a wasteland of industrial turbines where you can't have livestock or grow anything, have housing, and will have no recreational use. She researched that turbines are bad for your health and birds will be decimated.

Don Demallie stated there will be an immense cost of maintenance and we will have to have big rigs come in. He has worked on turbines and knows there is a lot of maintenance required. After the subsidies end in 20 years, what will happen? Who will be responsible? Will we get a subsidy? He said that knowing about the waves being created is important. He is against it. He feels the farmers have the right to lease their property, but a lot of people will be hurt by it and we will be stuck with it.

Brett Ewald is a biologist from Yates and brings people along the lakeshore looking at birds. He is opposed to the project and stated that this is the premier migratory route for raptors in northeast America with 50,000-60,000 counted every year and the turbines will be directly in their path. Describing a project of 80 turbines on Wolf Island in Canada, he stated that it wiped out the Red Tail Hawk population (5 sets of nesting birds) within two years. He wants the board to think about the beauty and wildlife that the turbines will affect.

Dale Howard talked about warranty deeds vs. quit claim deeds on property be purchased in the Southern Tier. He stated that the warranty deeds took a lot of money because gas leases on the land needed to be clear.

Eric Wayner told the board that he was raised here, left, and then brought his family back for the enjoyment of the peace and quiet. He stated that one farmer is going to impact too many families with no repercussions. He is against the windmills.

Jessica Hefferon stated that she is pro clean energy but feels this project doesn't make sense. Her employer has put up windmills and solar panels and says that wind is not a good choice, that he would choose solar over wind. She stated that the coal plant is dying and in 30 years the wind farm will die also. Who will remove them? She has seen estimates that it will take over \$1,000,000 to deconstruct one turbine. She thinks the project will tear the community apart. She cited General Municipal Law Article 18 regarding conflict of interest. She believes that town leaders have a vested interest.

Andy Atwater said for generations his family has been making income from the land and we already have a portion of our land taken up with a power plant the government doesn't want. He believes the power plant is the largest landowner, and Atwater Farms is the second largest. He stated that no property owner or farmer that he knows of has a PILOT and has to pay full taxes.

John Voelpel has received mail and visited the SOS website and nowhere can he find any person identifying themselves with the group or providing contact information. He stated that the power plant will be closing and the President has been saying that for the past 6 years. He wants to be put in contact with a farmer that says he can't grow crops because he has a windmill on his property. John has talked to 4 farmers and none of them have said they can't grow crops or their cows don't milk because of the windmills.

John Wolanyk clarified that his contract stated APEX will not be liable for those issues, he didn't say that those issues have occurred.

John Riggi said that he will speak to Mr. Voelpel anytime.

Jeff Thuman is opposed to the wind farm. He does not have enough information to be in favor of it. He feels there is a lot to lose by putting up a wind farm. Bringing in heavy equipment will damage a lot of land and 5 acres per turbine will be disturbed. He is pro-business and pro-growth. His company provides jobs for 39 people who put money into our community by buying gas, lunch, etc. Windmills will not provide long-term jobs and will have no benefit to our community other than some taxes. He would like to see more businesses like his in our community. He said it is difficult to get the facts and still wants to hear the other side of the story but hopes we kill the project.

Sue Davis is opposed to the windmills. She said that all farmers are not for this and this is a Right to Farm community and she wants to keep it that way.

Will DiLorenzo is concerned that his mother will not be able to sell her house because property values will decline and she wants to move to Texas to be with her new husband.

RESOLUTION 53-2015

EXECUTIVE SESSION

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 Board enter into an executive session to discuss a personnel matter with the attorney at 7:45PM.

RESOLUTION 54-2015

RETURN TO REGULAR SESSION

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 Board return to regular session at 8:24PM.

TOWN BOARD MEETING
MARCH 11, 2015 PAGE 9

On a motion of Councilman Alt, seconded by Councilman Wayner, the meeting adjourned at 8:25 P.M. subject to the Call of the Clerk. Carried unanimously.

Tracy L. Carmer, RMC
Town Clerk