

TOWN BOARD REGULAR MEETING
JULY 12, 2017

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 12th day of July 2017.

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

Absent: None

Attended by: Approximately 20 residents

Supervisor Engert called the meeting to order at 6:30PM with the Pledge to the Flag

RESOLUTION 62-2017

APPROVAL OF THE MINUTES

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

ADOPTED: Ayes 4 Engert, Alt, Jansen, Dewart
Nays 0

Resolved the minutes of June 14, 2017 be accepted as submitted.

RESOLUTION 63-2017

SEWER REPAIR PROJECT PHASE 2

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

ADOPTED: Ayes 4 Engert, Alt, Jansen, Dewart
Nays 0

WHEREAS, the Town desires to repair four sections of 12-inch and 15-inch diameter gravity sanitary sewers located on Quaker Road; and

WHEREAS, Wendel has submitted a proposal to prepare design documents and provide construction support for the sewer repairs at a cost of \$3,750.00; and

WHEREAS, the Town Engineer has estimated total project costs to be \$28,000.00; and

WHEREAS, the Town will be reimbursed by New York State for the total cost of this project through the State and Municipal Facilities Program.

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Somerset hereby retains Wendel to prepare design documents and provide construction support for the sewer repairs at a cost not to exceed \$3,750.00; and be it further

RESOLVED, that the Town Board of the Town of Somerset hereby authorizes the Town Engineer to issue a written RFP and obtain at least two written proposals to provide materials and labor for repairs to four sections of 12-inch and 15-inch diameter gravity sanitary sewers along Quaker Road; and be it further

RESOLVED, that the Supervisor is authorized 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.

Superintendent Denny stated this repair will help with infiltrated water.

RESOLUTION 64-2017

NEW YORK STATE SNOW AND ICE AGREEMENT

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

ADOPTED: Ayes 4 Engert, Alt, Jansen, Dewart
 Nays 0

RESOLVED, that the Supervisor is authorized to enter into a municipal snow and ice agreement with the State of New York for the removal of snow and ice from state highways for 2018/19 snow and ice season.

Attorney Haylett confirmed the amount for 2018/2019 is \$124,924.30, an increase of approximately \$5,000.

RESOLUTION 65-2017

LARGE TIRE DROP OFF

Supervisor Engert stated that our annual tire drop off no longer includes oversized tires. He would like to contract with Geiter Done to pick up large tires (farm equipment tires). The highway department will drop off two loads to reduce our cost. Drop off dates will be August 9th and 10th from 7:00AM – 3:30PM. The anticipated cost is less than \$1,000.

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

ADOPTED: Ayes 4 Engert, Alt, Jansen, Dewart
 Nays 0

Resolved August 9th and 10th is designated as the drop off dates for oversized tires only, and the Highway Superintendent is authorized and directed to deliver the tires to Geiter Done of Western New York.

RESOLUTION 66-2017
HEALTH CARE CONSORTIUM

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

ADOPTED: Ayes 4 Engert, Alt, Jansen, Dewart
 Nays 0

WHEREAS, the Town of Somerset has initiated and led an effort to form a municipal employee healthcare consortium in Niagara County; and

WHEREAS, the Somerset Supervisor is the chair and the Town of Somerset is the lead agency in the Greater Niagara Regional Healthcare Consortium initiative; and

WHEREAS, the Town of Somerset contracted with Arthur J. Gallagher to consult and seek grant funding to offset costs to be borne by the municipalities participating in the initiative; and

WHEREAS, the New York State Department of State informally notified the Town of Somerset that funding had been approved through the Municipal Restructuring Fund, a local government assistance program designed to stimulate permanent property tax reductions resulting from shared service initiatives; and

WHEREAS, the New York State Department of State notified the Town of Somerset that the award and contract documents were being mailed to the Town; now therefore

BE IT RESOLVED, that the Town Board hereby authorizes and directs the Town Supervisor to execute any necessary documents pursuant to review by the Town Attorney in order to achieve funding for this worthy initiative.

RESOLUTION 67-2017
SMOKE FREE PARK

Supervisor Engert received communication from Niagara County Department of Health and Roswell Park Cancer Institute to designate our Town park as smoke free. Roswell Park will provide free signs and replace them free of charge.

Councilwoman Jansen said this has been discussed for years and this is a good time to do it.

Supervisor Engert stated that some municipalities assess fines. He is hopeful that the park can be self-policed but fines can be added later if needed. He also discussed that some other municipalities allow smoking if someone is holding a private party. Discussion was had and the board agreed that the parks should be entirely non-smoking.

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

ADOPTED: Ayes 4 Engert, Alt, Jansen, Dewart
 Nays 0

WHEREAS, smoking is responsible for the premature deaths of over 430 Americans each year from lung cancer, heart disease, respiratory illness and other diseases, and

WHEREAS, secondhand smoke is responsible for over 50,000 deaths among non-smokers each year, and

WHEREAS, tobacco kills more Americans each year than alcohol, cocaine, crack, heroin, homicide, suicide, accidents, fires and Aids combined, and

WHEREAS, 80% of smokers started smoking before the age of 18 and the average initiation age is 12 years old, and

WHEREAS, every day an estimated 3,900 young people under the age of 18 try their first cigarette and 1/3 of these children will die prematurely from tobacco related illnesses, and

WHEREAS, to help role model non-smoking behavior to children and youth to provide children youth and their families with a safe smoke-free environment, now therefore be it

RESOLVED, that the Somerset Town Board is committed to providing a high quality of living to all residents, and

BE IT FURTHER RESOLVED, that the Town of Somerset believes that 1) there is no safe level of exposure to secondhand smoke, it can cause asthma, respiratory infections, cancer, and cardiovascular disease. Children should be able to play and exercise in Town of Somerset parks and recreation areas without being exposed to harmful effects of secondhand smoke, 2) tobacco product use in the proximity of children, youth and adults engaging in or watching recreational activities is unhealthy and detrimental to the health of both participants and observers, and 3) tobacco products once consumed in public spaces are often discarded on the ground thus posing a risk of ingestion to children and causing a litter problem, and

BE IT RESOLVED, THEREFORE, that the Town of Somerset adopts a policy that all Town of Somerset parks and recreation areas will be smoke-free, and

BE IT FURTHER RESOLVED, that the Supervisor is authorized and directed to request the free signage that is provided from Roswell Park Cancer Institute and direct the implementation throughout the designated areas of the town.

RESOLUTION 68-2017

MULTIPLE USE PLAN GRANT

Supervisor Engert stated that the Department of Parks Recreation and Historic Preservation has a grant that requires 50% matching funds by the municipality and the Department of State has a grant for LWRP, which only requires 25% matching by the

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municipality. He would like to adopt a generic resolution and determine later which funding is best. He said that Wendel is still sorting through that and is leaning toward the LWRP.

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

ADOPTED: Ayes 4 Engert, Alt, Jansen, Dewart
 Nays 0

WHEREAS, IN 1979, the Erie and Niagara Counties Regional Planning Board prepared the Somerset Power Plant Multiple Use Plan for the development of parkland and recreation areas on the power plant site in the Town of Somerset; and

WHEREAS, the multiple use plan was submitted to the Town and accepted by the Town in 1982; and

WHEREAS, the Town incorporated the multiple use plan into the Local Waterfront Revitalization Program adopted in 2006; and

WHEREAS, the Town has continuously incorporated the multiple use plan in the Town Comprehensive Plan adopted in 2003 and subsequently amended in 2012 and 2016; and

WHEREAS, the multiple use plan places a strong emphasis on shoreline access and recreation activities and is consistent with the Town's LWRP and with New York State Coastal Management guidelines; and

WHEREAS, the Town is committed to implementing the Multiple Use Plan to increase waterfront access and provide additional recreational opportunities for the public; and

WHEREAS, the multiple use plan was developed in 1979, and it is in the Town's interest to review the plan and update it to accommodate modern needs, conditions and concerns; and

WHEREAS, the Town has formed the Somerset Power Plant Multiple Use Plan Review Committee to oversee the development of an updated plan; and

WHEREAS, Town has determined that it is beneficial to submit for New York State grant funds in order to obtain professional assistance to best explore the options and develop an updated Master Plan with phasing and cost estimates for the property;

NOW THEREFORE BE IT RESOLVED that the Town Board authorizes the Supervisor to submit a grant application for the development of a Master Plan for the property; and

BE IT FURTHER RESOLVED that the Town Board commits to providing required matching funds for the grant.

LAKEFRONT EROSION

Supervisor Engert announced that Niagara Falls Neighborhood Housing Services will be at the Town Hall to assist residents with the paperwork needed to apply for funding. They will be in Somerset on July 18th and July 25th from 10:00AM – 2:00PM both days.

MONTHLY REPORTS RECEIVED AND FILED:

- Code Enforcement Officer
- Dog Control
- Police Report

RESOLUTION 69-2017

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

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

ADOPTED: Ayes 4 Engert, Alt, Jansen, Dewart
 Nays 0

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

COMMUNICATIONS

Clerk Carmer provided information received on a proposed rate increase for National Grid, including upcoming hearings.

Supervisor Engert stated that since we received the communication, the proposed rate has dropped a little. He is willing to talk to residents after the meeting if anyone would like more information.

RESOLUTION 70-2017

AUDIT OF CLAIMS

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

ADOPTED: Ayes 4 Engert, 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. 254 through No. 293	\$ 60,324.82
Highway Fund	No. 77 through No. 88	\$149,368.03
Sewer Fund	No. 68 through No. 75	\$ 3,064.58
Water Fund	No. 58 through No. 63	\$ 36,502.48

PRIVILEGE OF THE FLOOR:

Pam Atwater presented the flyers that APEX has mailed out and pointed out that all but one do not show any industrial wind turbines. And the one with the turbine does not show any houses, people or animals. She said it is a common public relations tactic. The ads are more of an emotional appeal rather than a realistic presentation of the impact on a

community. She also presented a diorama made to scale to show the size of the proposed turbines next to a house.

Peg Schwabel spoke relative to the air base in Niagara Falls. There are approximately 2,600 jobs at the base and we're told they won't be affected by the turbines. She discussed the previous times the base was recommended for closure and in 2005 Senator Schumer reminded those that the base has unobstructed air space. In 2009 aviators at the base said that certain areas in Afghanistan are mountainous and they need to fly low level (under 3,000 feet) to get supplies to our special forces and they need the training space. She said that APEX lobbyists tell people not to look at what the base is like today, look at what it is going to be ten years from now. She said that no one can predict the future.

Jim Hoffman spoke on various articles:

- In Texas the Governor signed a bill into law to make wind farms near military airfields ineligible for property tax exemptions. The bill sponsor said that wind farms near military bases could be a safety risk for pilots. She also feels the size of the turbines make them capable of creating interference with radar systems.
- There have been six accidents involving collisions with wind turbines and meteorological towers resulting in ten deaths, just in the US. He said MET towers are lethal to ag spraying and they are constructed quickly.
- The FAA Extension, Safety, and Security Act of 2016 mandates that towers between 50 and 200 feet having an above ground base of 10 feet or less in diameter be marked. The rules are still being created to implement the regulation with a deadline of July 2017. Jim suggested we find out if we are in compliance.
- APEX suspended a wind project in Tennessee to wait until the market conditions change to make the project more competitive.

Norm Jansen stated that he knows at least one local farmer that uses aircraft crop management. Regarding the tire disposal, he thinks it is a great thing because some people would just be throwing them in a ditch if we didn't take them. He inquired if the Town can access money from the funds that New York State collects from their tire disposal fee. Supervisor Engert said he will get back to him. He believes there isn't a return back from NYS for the large tires that we are specifically collecting in August.

Cathi Orr wrote a paper regarding accidents with small planes that were caused by fog. She also spoke on green energy being uneconomical. Solar and wind together produce less than 4% of our nation's electricity. There is also a push to go to electric cars and if the country does that, the grids will not be able to handle it. We need fossil fuel.

Taylor Quarles said he is impressed with the model that was presented. He stated that they took steps for safety by filing with the FAA, notifying Mercy Flight, and they have sought to notify crop dusters and is willing to take names of crop dusters to make sure they are on the list. He said it is an issue they take seriously. He stated he does his best to listen and

learn as concerns are raised. He said that there are 25 other projects installed in other communities that we can go to. He encourages everyone to do that.

Supervisor Engert asked Taylor what is the number one project that he would send our residents to that is a replica of what the project will look like in Somerset?

Taylor said he typically tells people Wyoming County where there are four projects and local officials will make themselves available.

Supervisor Engert asked which is the largest one?

Taylor is unsure as they were not developed by his company. He will look into it.

Discussion ensued about the size of projects.

Taylor said the point he was trying to make is to not take his word for it, go see for themselves although they are not exactly like ours.

Supervisor Engert would like the residents to be able to see a project with the same terrain as ours, relatively flat land, and 570' – 630' turbines in the same size area as ours.

Taylor said that in their application they will have visual representations of what the turbines will look like from multiple vantage points. Visiting those four projects will give people an idea of the look and sound of a turbine, but it is not identical to our application.

Supervisor Engert said that three years ago APEX told our committee that there is no place on the continental US that we could go to for the sound, visual and vibrations of the magnitude of this project.

Taylor said he appreciates his concern and he is also a little bit frustrated by the inability to communicate the details and is eager to present to us as clear a picture as possible.

Supervisor Engert said that Taylor stands there every month acknowledging that it is frustrating and asked Taylor if he conveys his frustration to his corporate directors.

Taylor said yes.

Supervisor Engert said he really appreciates that.

Taylor said his frustration is with the long development cycle with projects. He ended with saying that their office is closed the last week of this month and as always their company remains open to talk with anyone who would like to speak with them.

Agnes LaPort thanked the board for adopting the no smoking policy in the park. She said she has been to Wyoming and has seen the turbines. They are small compared to the ones yet to be determined here. She spoke to people who are not gagged leaseholders and said they will tell you what a problem they are. It is hilly so you do not see them all over like you will here.

Cathi Orr spoke of the gag orders and said not only the people with the leases are under gag order, but the good neighbors who agree for a price to not say a word are too. Because of that she said you cannot walk near a wind turbine and get an honest answer from them.

Kate Kremer thanked the board for their work on top of all of the other work they do in running the town. She said the poster identifies tonight's frustration in the feeling that this company is not being honest with us regarding what the project is and what the impact will

be. She said it is frustrating when we see brochures showing beautiful farmland promoting wind turbines, but there are not any wind turbines on the brochure and she wonders why. Kate said it reminds her that these people will pick up when the project is done and move back to Virginia where there are no wind turbines. She wonders why APEX doesn't have a diorama like the one shown tonight in their office. She said we are always digging for information.

RESOLUTION 71-2017

EXECUTIVE SESSION

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

ADOPTED: Ayes 4 Engert, Alt, Jansen, Dewart
 Nays 0

Resolved to enter into execution session at 7:40PM to discuss a personnel matter with our attorney.

RESOLUTION 72-2017

RETURN FROM EXECUTIVE SESSION

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

ADOPTED: Ayes 4 Engert, Alt, Jansen, Dewart
 Nays 0

Resolved to exit executive session at 8:06PM.

On a motion of Councilwoman Jansen, seconded by Councilman Alt, the meeting adjourned at 8:07P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk