

TOWN BOARD REGULAR MEETING  
JANUARY 11, 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 11<sup>th</sup> day of January 2017.

Present: Daniel M. Engert ----- Supervisor  
Gary R. Alt ----- Councilman  
Robin R. Jansen ----- Councilwoman  
Jeffrey M. Dewart ----- 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

Attended by: approximately 30 residents and students

Notice of said meeting sent to the Lockport Union-Sun and Journal on December 21, 2016 with same notice being posted at the Town Hall and on the website on the same day.

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

Clerk Carmer read the Notice of Public Hearing.

**Lighthouse Christian Camp Water District Petition**

Supervisor Engert called the hearing to order at 6:34PM.

Jon Hotaling from Quaker Road said that he understands this is a huge plus for the fire department and he highly recommends it.

With no one else desiring to be heard, Supervisor Engert closed the public hearing at 6:35PM.

Supervisor Engert opened the regular meeting at 6:36PM.

RESOLUTION 1-2017

**APPROVAL OF THE MINUTES**

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 minutes of the previous meeting on December 21, 2016 are approved as submitted.

RESOLUTION 2-2017

**APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT**

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

ADOPTED: Ayes           4       Engert, 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  
Police Report

ANNUAL REPORT RECEIVED AND FILED

Code Enforcement  
Senior Citizens  
Historical Society  
Barker Fire Department

COMMUNICATIONS:

Clerk Carmer stated the Town received notification from the Town of Yates on two public hearings that they were holding on January 5, 2017. One is for the operation of an agricultural processing or distribution facility and the other is for a dog kennel for 10 hunting dogs.

She also advised of the receipt of notification of three public hearings being held by the Town of Hartland on January 12, 2017. The first one is for a local law adding a chapter on energy systems to their code. The second hearing is for a local law adding a chapter on noncommercial wind energy conversion systems to their code. The third hearing is for a local law adding a chapter for commercial/industrial wind energy conversion systems to their code. We also received from the Town of Hartland notification that the Town of Hartland is acting as SEQR Lead Agency on the proposed laws.

Clerk Carmer advised that she is working with the Niagara County Department of Health to hold a free rabies clinic this year at our Highway Department. It is currently being scheduled for April 29, 2017 with the time TBA.

RESOLUTION 3-2017

**ANNUAL AUDIT OF DEPARTMENTS**

Supervisor Engert reported that Councilwoman Jansen and Councilman Dewart conducted the annual audit of the departments on December 28, 2016. Councilwoman Jansen stated that she and Councilman Dewart audited the following areas:

Town Clerk – Dog licensing, Hunting licensing, Water Bill collection, Building Permit fees, Passport fees, and other town fees such as faxing, genealogy fees,

Supervisor – Insurance premiums paid by retirees and the subsequent depositing of those premiums

Tax Collector

During the audit any questions they had were answered to their satisfaction. They audited both cash and check and online (bank) payments and were satisfied with the results of the audit for each of the above areas.

Fines and Bail

Councilwoman Jansen stated they have some concerns about the handling of cash and deposits, as they selected a payment and could not track it to a deposit slip. Due to the closing of the local bank branch, the daily cash receipts are accumulated and deposited as a lump sum, sometimes overlapping into the next month with no audit trail. She said the cash payment was eventually tracked but there needs to be an easier way to do it. The Court Clerk has already implemented their recommendation to create a separate daily deposit slip so each day's receipts can be listed separately as a deposit and is easily tracked. Additional recommendations: include an adding machine tape to each deposit slip for each payment type; if a deposit is not going to be made timely, give it to the Town Clerk to take with her deposits and keep an audit log of the deposit that was given to the Town Clerk and that the bank receipt was returned to the Court Clerk with the correct amount deposited; the 2017 Audit Committee meet with the Court Clerk again in a few months (or sooner) to determine what procedures have been implemented to correct these issues, or if an action plan has been discussed with the Town Justice.

Supervisor Engert and Councilman Dewart agreed to follow up with the Court Clerk on Wednesday morning next week.

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

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

**WHEREAS**, the Audit Committee conducted its annual audit on Wednesday, December 28, 2016, and

**WHEREAS**, the criminal and civil dockets of the Town Justice for 2016 having been duly examined with the monthly cash summary being viewed and the fines and fees having been turned over to the proper officials, and

**WHEREAS**, the records of the Town Clerk for 2016 having been duly examined and turned over to the proper officials, and

**WHEREAS**, the records of the Tax Collector for 2016 having been duly examined and turned over to the proper officials, and

**WHEREAS**, the records of the Supervisor for 2016 having been duly examined with all monies disbursed properly,

**BE IT RESOLVED** that the Somerset Town Board accept and adopt the findings of the Audit Committee for 2016 that the aforementioned departments have properly managed those monies that fall within their purview, and

**BE IT FURTHER RESOLVED** that pursuant to the recommendation of the Audit Committee, a meeting be scheduled with the Court Clerk, the Town Justice, the Town Clerk, the Town Supervisor, and Audit Committee Member/Town Councilman Dewart for the purpose of the procedural deposit issue that was raised.

RESOLUTION 4-2017

**WATER DISTRICT PETITION REFERRAL**

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

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

Resolved the petition is referred to the Town Engineer for a cost analysis, and to the Town Attorney to draft a contract to be ready for the next meeting.

RESOLUTION 5-2017

**EXTENSION OF GASOLINE CONTRACT WITH DRUM OIL**

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

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

Resolved to extend the contract with Drum Oil & Propane for another year.

RESOLUTION 6-2017

**DELEGATE AND ALTERNATE TO ASSOCIATION OF TOWNS MEETING**

Supervisor Engert proposed to nominate himself to be appointed the delegate for the Association of Towns meeting, and Clerk Carmer as the alternate delegate for the meeting. Supervisor Engert stated this is different than in previous years as he would like to attend the annual meeting and have the opportunity to advocate for passage of a resolution put forth by the Town of Somerset and twelve other Towns. He stated that our attorneys and some community groups are on the docket for presentations and they are expecting a large turnout.

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

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

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Resolved that Supervisor Engert be appointed delegate for the Association of Towns meeting, and Clerk Carmer be appointed the alternate delegate for the Association of Towns meeting.

RESOLUTION 7-2017

**BARKER FIRE DEPARTMENT MEMBERSHIP REFERRAL**

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

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

Resolved Thomas Moen, Kristie Stansbury and Aaron Mueller are awarded membership to the Barker Fire Department.

RESOLUTION 8-2017

**HIGHWAY TRUCK PURCHASE**

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

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

**WHEREAS**, General Municipal Law Section 103(16) permits any board of a political subdivision to "piggyback" off another political subdivision for purchases of goods and equipment if such contract was let to the lowest responsible bidder; and

**WHEREAS**, the County of Onondaga, by bid reference number 7823, put out for sealed bids the furnishing of trucks, heavy duty class 8 cab chassy type and said bid allowed all municipal entities authorized under the General Municipal Laws of the State of New York to purchase goods under this Bid Contract; and

**WHEREAS**, Beam Mack Sales Service, Inc. was the awarded this bid Contract by the County of Onondaga; and

**WHEREAS**, the Town of Somerset finds it is in the best interest of the Town to "piggyback" off of the County of Onondaga Bid No. 7823 as permitted by General Municipal Law Section 103(16); now therefore

**BE IT RESOLVED**, that the Town of Somerset Highway Superintendent is hereby authorized to purchase a 2018 Mac GU713 cab and chassy with allison automatic as provided for under the County of Onondaga Bid No. 7823 from Beam Mac Sales Service Inc. at a cost not to exceed \$228,109 and said expenditure shall be taken from the 2017 budget.

RESOLUTION 9-2017

**ANNUAL APPOINTMENTS**

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

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

Resolved the following are approved pursuant to the parameters set forth in the budget:

DOG CONTROL OFFICER shall be Mark Remington

DEPUTY DOG CONTROL OFFICER shall be Daniel Greenwald

SENIOR CITIZEN DIRECTOR shall be JoAnn Greenwald

NUTRITION SITE SERVICE ASSISTANT shall be Tonya Velia

PLANNING BOARD CHAIRMAN shall be Jon Hotaling

ZONING BOARD CHAIRMAN shall be Scott Ecker

PLANNING BOARD AND ZONING BOARD OF APPEALS SECRETARY shall be Tracy Carmer

**SUPERVISOR'S APPOINTMENTS**

Supervisor Engert made the following appointments:

CONFIDENTIAL ASSISTANT TO THE SUPERVISOR – Melinda Austin

DEPUTY SUPERVISOR – Robin Jansen

HISTORIAN – Peter Devereaux

AUDIT COMMITTEE – Councilman Jansen & Councilman Dewart

PLANNING/ZONING ADVISORY COMMITTEE – Supervisor Engert & Councilman Alt

WATER/SEWER/REFUSE ADVISORY COMMITTEE – Councilman Dewart &

Councilwoman Jansen

PARKS/RECREATION ADVISORY COMMITTEE – Supervisor Engert & Councilman Alt

DRAINAGE/DITCHING ADVISORY COMMITTEE – Councilman Dewart & Councilman Alt

SENIOR CITIZEN'S ADVISORY COMMITTEE – Councilwoman Jansen & Councilman Alt

PUBLIC SAFETY ADVISORY COMMITTEE – Supervisor Engert & Councilman Dewart

BUSINESS DEVELOPMENT/TOURISM ADVISORY COMMITTEE – Supervisor Engert &

Councilwoman Jansen

COMMUNICATION ADVISORY COMMITTEE – Supervisor Engert & Councilwoman Jansen

RESOLUTION 10-2017

**ANNUAL SCHOOLING FOR TOWN OFFICIALS**

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 schooling for Elected and Appointed Officials, Water Superintendent, Code Enforcement Officers, Assessor and Dog Control Officers when school pertains to respective jobs is duly authorized

RESOLUTION 11-2017

**APPROVAL OF HISTORICAL SOCIETY CONTRACT**

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 contract with the Town of Somerset Historical Society for \$7,752.00 for 2017 is approved.

RESOLUTION 12-2017

**APPROVAL OF SENIOR CITIZENS CONTRACT**

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 contract with the Town of Somerset Senior Citizens for \$7,500.00 for 2017 is approved.

RESOLUTION 13-2017

**APPROVAL OF SOMERSET YOUTH BASEBALL CONTRACT**

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

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

Resolved that the contract with Somerset Youth Baseball for \$6,200.00 for 2017 is approved.

RESOLUTION 14-2017

**APPROVAL OF AMERICAN LEGION CONTRACT**

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

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

Resolved that the contract with the American Legion for \$1,400.00 for 2017 is approved.

RESOLUTION 15-2017

**APPROVAL OF WATER AGREEMENT WITH THE VILLAGE OF BARKER**

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

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

Resolved that the contract with the Village of Barker for providing use of water equipment and services for repair of water lines for 2017 is approved.

RESOLUTION 16-2017

**APPROVAL OF HIGHWAY AGREEMENT WITH VILLAGE OF BARKER**

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 contract with the Village of Barker for providing use of highway equipment and services for 2017 is approved.

RESOLUTION 17-2017

**ANNUAL APPOINTMENT OF ENGINEER**

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

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

Resolved the Supervisor is authorized to execute an agreement with Wendel for 2017 pursuant to the parameters set forth in the budget.

RESOLUTION 18-2017

**ANNUAL APPOINTMENT OF ATTORNEY**

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 Supervisor is authorized to execute an agreement with Seaman Norris LLC for 2017 pursuant to the parameters set forth in the budget.

RESOLUTION 19-2017

**APPROVAL OF KENNEL CONTRACT**

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 contract with Fort Hyde Kennels for 2017 is approved pursuant to the parameters set forth in the budget.

RESOLUTION 20-2017

**ANNUAL APPOINTMENT OF ASSESSOR**

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

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

Resolved the Supervisor is authorized to execute an agreement with Brian Hess for 2017 with a 1.75% increase.



RESOLUTION 21-2017

**AUTHORIZE PURCHASE OF STONE, GRAVEL, ETC.**

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

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

Resolved that the Superintendents of Departments are authorized to purchase stone, gravel, asphalt, gasoline, tires, etc., at state and county prices.

RESOLUTION 22-2017

**AUTHORIZE PURCHASES UP TO \$3,000.00**

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 department heads are authorized to purchase up to \$3000.00 per item without prior Town Board approval.

RESOLUTION 23-2017

**AUTHORIZE TO PRE-PAY ITEMS**

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 prepay utility bills, contracts and postage.

RESOLUTION 24-2017

**AGREEMENT TO SPEND HIGHWAY FUNDS**

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 pursuant to the provisions of Section 284 of the Highway Law, monies levied and collected for the repair and improvement of highways, and received from the state for the repair and improvement of highways, \$287,615.00 shall be expended for the general repairs upon 33.42 miles of town highways, including sluices, culverts and bridges having a span of less than five feet and boardwalks or the renewals thereof.

RESOLUTION 25-2017

**APPROVAL OF INVESTMENT AND PROCUREMENT POLICIES**

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

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

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Resolved that upon review by the Town Board, the investment policy and procurement policy of the Town of Somerset are approved.

RESOLUTION 26-2017

**ANNUAL APPOINTMENT OF OFFICIAL DEPOSITORIES**

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

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

Resolved the OFFICIAL DEPOSITORIES for accounts and investments shall be:

Key Bank  
M & T Bank, Lockport, NY  
Bank of Akron, Akron, NY  
Chase Bank, New York, NY

RESOLUTION 27-2017

**ANNUAL APPOINTMENT OF AUTHORIZED SIGNATURES AT BANKS**

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

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

Resolved the AUTHORIZED SIGNATURES AT BANKS shall be the Supervisor, Deputy Supervisor and Town Clerk.

RESOLUTION 28-2017

**ANNUAL APPOINTMENT OF OFFICIAL PUBLICATION**

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

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

Resolved the OFFICIAL PUBLICATION of the Town of Somerset shall be Lockport Union-Sun & Journal, Lockport, NY

RESOLUTION 29-2017

**ANNUAL APPOINTMENT OF OFFICIAL MILEAGE**

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

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

Resolved the OFFICIAL MILEAGE shall be based on the federal rate with the rate for 2017 being \$0.535 cents per mile

RESOLUTION 30-2017

**AUDIT OF CLAIMS**

On a motion of Councilman Alt, seconded by Councilwoman Jansen, 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. 1 through No. 25	\$72,076.79
Highway Fund	No. 1 through No. 10	\$32,711.38
Sewer Fund	No. 1 through No. 8	\$ 5,007.26
Water Fund	No. 1 through No. 4	\$40,961.13

PRIVILEGE OF THE FLOOR:

Jon Hotaling spoke on behalf of the American Legion and thanked the Board for their generosity. He said the funds are needed for the programs they sponsor, including flags and grave markers.

Jim Hoffman thanked the Board for continuing the fight. He discussed some items from a letter that was submitted by Mr. James Muscato II on behalf of Lighthouse Wind relating to our Comprehensive Plan. He said that two important reasons for the update have been ignored in the letter: Technology has greatly changed and the turbines today are gigantic and far more numerous; as more operational data relating to the negative local impacts has emerged, the public perception of the "benefits" has changed. He said Mr. Muscato stated that the revision appears to be motivated by the Town Board's opposition to the project. Jim said that the Board is responding to the wishes of the majority of the people. He highlighted more parts of the letter to the Board for analysis and provided a copy of his comments for the record. He went on to state that Drew Reilly did an excellent job and he read a paragraph that Drew had included in a handout at one of the previous meetings that summarizes that installation of these types of facilities and other large scale development is in complete opposition to all of the goals and the vision of the Town and there is no rational argument that numerous 600 foot wind turbines spread throughout the Town would not change the character of the Town or impact the vision of the community. The memo stated that achieving only one small potential objective of helping the economies of a few farmers should not outweigh the vision, goals, plans and future of the entire town.

Pam Atwater provided information from an article dated December 11, 2016 that says families in Ireland that were forced from their homes due to noise have won a court case. The company accepted full liability for causing nuisance to seven families who live up to 1km (3,281ft) from the wind farm. The lawsuit began in 2013 and will continue in court for punitive damages in 2017. She said the facebook page for Lighthouse Wind compares the

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severity of the noise from the turbines to listening to a refrigerator and air conditioner from 1,000 feet away.

Steve Royce has reviewed our recently enacted wind turbine law and suggested some amendments. He recommends that each WECS be equipped with lightning protection systems, fire detection and fixed fire suppression systems, redundant braking systems (both arranged for fail-safe operation), and a metering system to record electrical power taken from the grid that should be reported to the Board monthly and paid to the providing utility at prevailing residential rates. He submitted his comments for the record.

Marcia Ray thanked the board for their diligence and tenacity. She feels that Jim Hoffman is an asset and she appreciates the data that he provides.

Chris Bronson stated that on the Department of Public Service website, 83% of the letters written in response to Lighthouse Wind are vehemently opposed to it. She feels this is in large part to SOS and their supporters, and the responsiveness of the Board.

Agnes LaPort stated that Gov. Cuomo is promising revitalization and spoke of the wind power offshore of Long Island and his comment was "It is going to be far enough away where nobody has to look at it."

Taylor Quarles announced that APEX has new office hours that are Monday and Wednesday from 9:00AM – 5:00PM with a break for lunch. If requested, they can be available at other times.

Cathi Orr said she is grateful for the Ireland study backing up what she has been saying about the noise. She stated in their contracts, wind companies admit there is a problem with noise because the company tells the lease owners that the company will not be held responsible for noise or electrical interference. She said there are safety manuals for turbines and they should be forced to supply them. She referred to Orangeville where the turbines are 430 feet and said that workmen are not allowed within 1,500 feet of them while they are running, yet they placed the turbines within 1,320 feet of their houses. The World Health Organization recommends at least 1-1/4 mile from residences; more if someone is a sensitive receptor (someone has more difficulty with noise).

RESOLUTION 31-2017  
**EXECUTIVE SESSION**

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

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

Resolved to enter into execution session at 7:30PM to discuss litigation with our attorney.

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RESOLUTION 32-2017

**RETURN FROM EXECUTIVE SESSION**

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

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

Resolved to exit executive session at 8:18PM

On a motion of Councilwoman Jansen, seconded by Councilman Alt, the meeting adjourned at 8:19P.M. subject to the Call of the Clerk.

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Tracy L. Carmer, RMC  
Town Clerk