

TOWN BOARD SPECIAL MEETING
AUGUST 27, 2013

A Special 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 27th day of August 2013.

Present: Daniel M. Engert ----- Supervisor
 Gary R. Alt ----- Councilman
 Robin R. Jansen ----- Councilman
 Jeffrey M. Dewart ----- Councilman
 Tracy L. Carmer ----- Deputy Clerk
 Kenneth J. Bigelow ----- Supt. of Highways
 Morgan Jones, Jr. ----- Counsel
 Randy Roeseler ----- Engineer

Absent: Randall J. Wayner ----- Councilman

Attended by: 5 residents

Notice of said meeting was sent to the Lockport Union-Sun & Journal on August 14, 2013 with same notice being posted on the same date at the Town Hall and on the website.

Supervisor Engert called the meeting to order at 6:00PM with the Pledge to the Flag.

RESOLUTION 100-2013

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 August 8, 2013 be approved as submitted.

SOMERSET LAKESHORE SITE REZONING

Supervisor Engert read the resolution adopted by the Somerset Lakeshore Site Rezoning Committee at their meeting August 26, 2013. Supervisor Engert then discussed the minor changes that were made and the reasons why including:

- Changed the wording of port facility to docking facility
- The traffic pattern incorrectly showed Route 531 as Route 53
- On map 1, the land use for the power plant was corrected
- Environmental Assessment Form section for scenic views known to the community was checked yes but changed to no after discussion that this piece of property is not known to the community as a place to come to view the lake, and the Babcock House is a scenic view and will not be obstructed by the project

Engineer Roeseler recapped the steps that were taken by the committee, and reviewed the steps remaining.

RESOLUTION 101-2013

PUD (Planned Unit Development) REZONING PROPOSED LOCAL LAW

On the introduction of Councilman Jansen, seconded by Councilman Dewart, the following resolution was

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

Whereas, the Somerset Town Comprehensive Plan recommended that the Town consider rezoning select sites in the Town in support of appropriate economic development activities; and

Whereas, the Town of Somerset established a Somerset lakeshore Site Rezoning Committee (the "Committee"), consisting of Town Board, Planning Board, Property owner, and Niagara County representatives, and the Town Attorney, and hired an Engineering and Planning Consultant, Wendel, to consider the future of the Somerset Lakeshore site, a 179+/- acre parcel of land west of the power plant facility located at 7725 Lake Road in the Town of Somerset, Niagara County, New York; and

Whereas, the Committee met on several occasions and carefully evaluated the zoning for the property, and determined that the appropriate action was to rezone the site from a PUD allowing a data center to a PUD allowing a mixture of business, light industrial, public and open space; and

Whereas, the Somerset Town Zoning Code includes Article XV that contains provisions for establishing Planned Unit Developments (PUDs); and

Whereas, Wendel and the Committee have prepared recommendations for a new PUD designation for the subject property, in conformance with the Comprehensive Plan implementation recommendations, the Town's adopted Local Waterfront Revitalization Program (LWRP), and Article XV of the Town Code; and

Whereas, the Town in following the required procedures and processes as set forth in Article XV of the Town's Zoning Code has received endorsement of the Conceptual PUD Plan from the Code Enforcement Officer and the Somerset Planning Board; and

Whereas, pursuant to Municipal Home Rule Law and Article XV, the Town Board is now proceeding with the PUD Rezoning Plan, and with enacting a local law to be known as a Proposed Local Law for the year 2013 (copy attached), which proposes to amend the Town's Zoning and Zoning Map to rezone a portion of the parcel SBL#7.00-3-28 from the current PUD designation to a new PUD designation, with the provisions of the new PUD as set forth in the application for the rezoning, and

Whereas, the Town would like to start the process of adopting these zoning and map amendments, and in accordance with SEQR regulations, the Town Board would like to establish itself as SEQR Lead Agency; refer these proposed zoning and map amendments to Niagara County in accordance with General Municipal Law section 239-m and to appropriate surrounding communities under 239-nn; and complete any requirements under New York State Law including Agriculture and Markets Law.

Now, Therefore, Be It Resolved, that the Somerset Town Board refers these proposed zoning and map revisions to the Somerset Planning Board for review and recommendation, and

Be It Further Resolved, that the Town calls for a Public Hearing on proposed Local Law for the year 2013 for the proposed zoning and map amendments to be held September 17, 2013, at 7:00 PM, at the Somerset Town Hall, 8700 Haight Road, Barker New York, 14012, and that the Town Clerk is authorized to perform the appropriate notifications, mailings and advertisement of said public hearing, and

Be It Further Resolved, that the Town Board, wishing to act as SEQR Lead Agency, authorizes a coordinated SEQR process; the completion of 239-m and 239-nn referrals to Niagara County and appropriate surrounding communities, and notifications required under NYS Agriculture and Markets Law.

CONSOLIDATION COMMITTEE

Supervisor Engert stated he previously appointed a committee to look into the consolidation of the Highway Superintendent function and other considerations for the benefit of the Town. He stated the Consolidation Committee met again last week and there is disagreement amongst the committee regarding the course of action to take. He stated it was the agreement of the committee that in order to meet the requirements of the law, there was no conceivable way the committee could come up with a

TOWN BOARD SPECIAL MEETING
AUGUST 27, 2013 PAGE 3

recommendation and the language to amend a local law in time for the biennial election. He stated the committee has been dissolved but can be reactivated in the future if needed.

RESOLUTION 102-2013

REQUEST FOR PROPOSAL (RFP) FOR AN ENERGY SUPPLIER FOR THE TOWN OF SOMERSET

Supervisor Engert would like to develop an RFP (Request for Proposal) for an energy supplier for the Town of Somerset.

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

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

Resolved the supervisor is authorized to develop and issue an RFP for an energy supplier for the Town of Somerset for a minimum of two years.

COMMUNICATIONS:

LAKESHORE DRIVE REFUSE PICKUP

Deputy Clerk Carmer stated that she has received a couple of complaints over the last two days regarding refuse pickup along the lake. Supervisor Engert proposes that we send a communication to Modern to confirm that the refuse is being picked up by Modern on Lakeshore Drive. Discussion ensued regarding the easement, why the residents might be using the totes for Somerset Drive residents, and if they are rental properties through a leasing company.

Attorney Jones was supplied with the addresses of the residents on Lakeshore Drive to draft a letter.

RESOLUTION 103-2013

TRIATHLON AT CAMP KENAN

Supervisor Engert reported he has received a letter from Camp Kenan requesting the Town of Somerset to host their second Triathlon on October 5, 2013.

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 Great Lakes Triathlon be hosted in the Town of Somerset and certain assets in town to be used for parking.

RESOLUTION 104-2013

DEFINITION OF FRONT/REAR YARD IN RESIDENTIAL LAKESHORE DISTRICT

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

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

Resolved a public hearing will be held on September 17, 2013 for a proposed local law to define front yard and back yard in the residential lakeshore district.

RESOLUTION 105-2013

EXECUTIVE SESSION

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

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

Resolved the Board enter into executive session to discuss personnel issues of a particular person at 6:55P.M.

RESOLUTION 106-2013

RETURN TO REGULAR SESSION

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

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

Resolved the Board return to regular session at 7:35P.M.

On a motion of Councilman Dewart, seconded by Councilman Jansen, the meeting adjourned at 7:36P.M., subject to the Call of the Clerk. Carried unanimously.

Tracy L. Carmer, RMC
Deputy Town Clerk

PROPOSED LOCAL LAW

**TOWN OF SOMERSET
LOCAL LAW NO. ____ OF THE YEAR, 2013**

A Local Law Entitled “Amendment to the Code of the Town of Somerset”

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

The official Map of the Town of Somerset shall be amended by rezoning premises located on Lake Road, Barker, New York, part of SBL#7.00-3-28, from Planned Unit Development (PUD) District to a new Planned Unit Development (PUD) District, consisting of 179± acres of land and more specifically described as follows:

All that tract or parcel of land, situate in the Town of Somerset, County of Niagara and the State of New York, being Lot 15 and the West part of Lot 14, in the fifth section, Township 16, in the sixth range being a part of the property conveyed by deed recorded in the Niagara County Clerk’s Office in Liber 2926 of Deeds, Page 96 and bounded and described as follows:

BEGINNING at the Southwest corner of Lot 15 which point is located in the center line of Lake Road;

THENCE from said point of beginning, North 00° 18’ 13” East, along the West Line of Lot 15, 3693.03 feet to the Southerly side of Lake Ontario; and

THENCE along the Southerly side of Lake Ontario the following sixteen (16) courses and distances along the water’s edge of Lake Ontario:

1. North 77° 31’ 30” East, 91.68 feet; and
2. North 85° 44’ 30” East, 139.06 feet; and
3. North 81° 46’ 44” East, 204.73 feet; and
4. North 80° 08’ 30” East, 111.01 feet; and
5. North 80° 41’ 16” East, 110.75 feet; and
6. North 76° 14’ 15” East, 76.11 feet; and
7. North 77° 46’ 26” East, 57.10 feet; and
8. North 82° 46’ 33” East, 260.39 feet; and
9. North 81° 26’ 00” East, 99.37 feet; and
10. North 82° 02’ 46” East, 148.58 feet; and
11. North 83° 49’ 48” East, 102.40 feet; and
12. South 86° 57’ 21” East, 42.59 feet; and
13. North 79° 23’ 40” East, 194.45 feet; and
14. North 81° 11’ 02” East, 246.19 feet; and
15. North 81° 08’ 00” East, 110.23 feet; and

TOWN BOARD MEETING
AUGUST 27, 2013 PAGE 7

16. North $82^{\circ} 08' 29''$ East, 81.44 feet; and

THENCE South $00^{\circ} 47' 49''$ West, 4019.28 feet along a line parallel with the West line of Lot 14 to the center line of Lake Road;

THENCE along the center line of Lake Road the following two (2) courses and distances;

1. North $89^{\circ} 12' 11''$ West, 1408.42 feet; and
2. North $89^{\circ} 52' 41''$ West, 606.66 feet to the point or place of beginning.

Being and intending to describe the portion of SBL No. 7.00-3-28 in the Town of Somerset located North of and contiguous with Lake Road and consisting of approximately $179\pm$ Acres.

This local law shall take effect immediately upon its filing in the Office of the Secretary of State.