

TOWN BOARD REGULAR MEETING
July 14, 2021

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 14th day of July 2021.

Present:	Jeffrey M. Dewart-----	Supervisor
	Robin R. Jansen -----	Councilwoman
	Jon Hotaling -----	Councilman
	Gail Damon -----	Councilwoman
	Fred Leuer -----	Councilman
	Tracy L. Carmer-----	Town Clerk
	Michael M. Flint -----	Supt. of Highways
	Jonathan D. Dewart -----	Supt of Water/Sewer/Grounds
	Mindy Austin -----	Confidential Asst. to the Supervisor
	David Haylett-----	Attorney

Audience: approximately 12 residents

Absent: Brian Sibiga ----- Engineer

Supervisor Dewart called the meeting to order at 6:00PM with the Pledge to the Flag and a prayer for guidance.

DATA CENTER PRESENTATION

Jerry Goodenough from Beowulf discussed the presentation that was provided to the Planning Board (with some updates). He stated that they would use approximately 30+/- acres of the 417 acre site. To start, they will build two new buildings and tear down two existing buildings. They will reuse an existing building for their IT center.

The PUD breakdown will consist of the data center, 276 acres for future Industrial/Business uses, and 25% for open space and environmental preservation (104 acres).

He said the project will not have an impact on water/sewer demand. Grading will not impact adjacent parcels and no material will be removed from the site.

There are no wetlands on the 30 acre site. The Wetland delineated will not be disturbed and the 100-year floodplain located along the immediate Lake Ontario shoreline will not be impacted. No historic or archeological resources will be affected by this project. NYSDEC has listed the Bald Eagle as endangered and they are required to be more than 660 feet away from the Bald Eagle nest. He stated that the project is approximately 1200 feet away.

The site will continue to use the Lake Road entrances and delivery routes will avoid travel through the Village. There will be some minor modifications of the existing on-site roadways around the new buildings. Crushed stone may be required in some areas for stability for construction and operational activities.

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This parcel has not been utilized for agricultural use.

They will maintain existing drainage patterns and outfalls and are in compliance with NYSDEC SPDES GP-0-20-001. The site will have an upland diversion swale to take runoff from the south and divert to the west to an existing drainage course. They will install a new system of catch basins and storm water piping to collect and convey to existing drainage structures.

They submitted the SEQR and have not received any objection to the Town acting as Lead Agency.

Councilman Leuer asked if the catch basins would be large enough to catch any runoff from firefighting.

Chuck White, Engineer for the project, stated that it is not typical that a storm water system would anticipate a firefighting operation and the conveyance system would handle any flows from firefighting. Discussion ensued regarding the design of the system.

Councilman Hotaling asked if there will be a sprinkler system or fire suppression system.

The buildings will not have sprinklers and there is not any required fire protection. There will be fire detection systems.

Councilwoman Damon asked the following related to the SEQR form (the preparer of the form was not present to provide answers):

- Why was new or additional demand for energy answered no? The demand right now is low.
 - Will have to get back to her.
- The question for increased traffic above present levels was answered no.
 - During construction there will be higher traffic than now, but once it is up and running it will not be.
- She believes there is a typo on land uses because the numbers do not add up.
 - Will have to get back to her.
- The question regarding whether the property contiguous to an historic place was answered no. She believes that the Babcock House would fall into that category but the Historical Society has not been able to apply for that status because they do not own the property.
 - Will get back to her.
- Is the site within 5 miles of any designated and publicly accessible federal, state or scenic resource? The Seaway Trail (Route 18) falls into the category of a scenic byway.
 - Will get back to her.

RESOLUTION 82-2021

APPROVAL OF THE MINUTES

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
Nays 0

Resolved the minutes of the previous meeting on June 9, 2021 are accepted as submitted.

RESOLUTION 83-2021

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

On a motion of Councilman Hotaling, seconded by Councilman Leuer, the following resolution was

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
Nays 0

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

RESOLUTION 84-2021

PUBLIC HEARING FOR LOCAL LAW #4-2021 AMENDMENT TO THE CODE OF THE TOWN OF SOMERSET

Attorney Haylett said that because it is a zoning change it requires a Local Law.

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
Nays 0

Resolved, that a Public Hearing be held on July 27, 2021, at 6:00p.m. to hear and consider the adoption of a proposed Local Law for the year 2021, amending the Town of Somerset Zoning Ordinance and Map to rezone part of SBL # 8.00-1-1.11 located north of Lake Road, Barker, New York 14012, presently a Planned Unit Development District to an amended Planned Unit Development District pursuant to Section 205-56 of the Code of the Town of Somerset.

RESOLUTION 85-2021

AGREEMENT WITH LAKE MARINER LLC

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
Nays 0

Resolved that Supervisor Dewart is authorized to sign a Trust and Agency agreement with Lake Mariner LLC to pay the outside engineering costs.

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Attorney Haylett stated that we had to hire an outside engineering firm for this project so the Trust and Agency is required to be set up to allow the company to deposit money into the account and the Town would pay the engineering costs from this fund.

RESOLUTION 86-2021

AUDIT OF CLAIMS

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
 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. 214 through No. 259	\$ 34,300.72
Highway Fund	No. 64 through No. 72	\$ 8,396.46
Sewer Fund	No. 68 through No. 83	\$ 19,499.19
Water Fund	No. 48 through No. 60	\$ 56,207.29

SUPERVISOR UPDATES:

Supervisor Dewart and Councilman Leuer attended a meeting on the Rails to Trails. They need to get a plan together and it has to be determined whether the trestle will be removed but they have not heard yet. There is an access road to the west that could be used to get over to the Cobblestone House.

Supervisor Dewart asked what is happening with the Babcock House and suggested that they donate it to the Town so we could be able to get grants for the upkeep. Over the next couple of weeks he and Councilman Leuer will meet with the President of the Somerset Historical Society to discuss options.

Over the next couple of months Supervisor Dewart would like to set up a committee for our 200 Year celebration that will be coming up in a couple of years.

PRIVILEGE OF THE FLOOR

Steve Royce stated that the SEQR document seems sloppy and reiterated the issues that Councilwoman Damon brought up. He said that they are calling for 200mw of power, and that amount would power 160,000 homes. He feels that is a lot of power for little return.

Betty Wolanyk thanked the Board for joining the legal challenge to OERS regulations and process. She stated that she is suspicious of any renewable corporations so she listened carefully at the S-power presentation on May 12th. They were very specific about where the battery storage would be located. When she attended their public information session in June she asked about battery storage and was told that they had

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no plans for battery storage. She questions how reliable the information is that they provided to the Town Board. Betty also noted that there is a conflict of interest between Tetrattech and S-power.

Jim Hoffman said that a plan for the complete property north of Route 18 is needed to place all other plans for the site in perspective. This property is approximately 1,350 acres with 1.5 miles of frontage on Route 18. He stated that a detailed site plan for the data center proposal is need for Planning Board approval and that should include location of all structures, and setbacks. He said that because drainage is a significant issue due to the proximity to Lake Ontario, a plan must be submitted to the Town Engineer for approval. He feels the following:

- More information is needed for the future use of the 276 acres set aside for industrial/business uses
- Asked to have the Wetland/stream delineation information sent to USACE to be supplied.
- He wants them to expand on their comment “consistent with the Town of Somerset LWRP:
- He is interested in the DEC’s response to the eagle nest information supplied to them.
- He stated that SEQR applies and should be pursued

He said that Beowulf must comply with all Article 8 siting requirements imposed when the plant was authorized. He also noted that as of June 9th Beowulf was in arrears on Somerset Railroad property taxes, and as of July 10th they owed back property taxes on the Somerset property to Niagara County. He stated that school tax payments are also behind.

Mary Ellen Royce spoke in support of what Jim Hoffman said. She is wondering about what is happening with the additional 276 acres of land. She feels that we are entitled to the full plan. She is very concerned about the Wetland/stream delineation, the brownfield, and drainage. She noted that the Babcock House, Rails to Trails, and the park were not conceptualized on their map. She does not want a building permit to be issued for this.

Marcia Ray asked what are we to believe and what are we going to get from this? She read an article regarding fracking for methane reserves. It was supposed to be the environmental issue of our time and it was banned in 2015 and 2020. Now we have an issue that rivals the dangers of fracking. The issue is bitcoin. She said that it is dependent on a large amount of electricity and bitcoin mining is drawn here by low cost energy. She said that mandates are not subjected to any CLCPA clean energy mandates if it doesn’t go to the grid. She said this requires careful consideration.

Patty Ray agrees with others that information from the open house was lacking and not specific. She said that she drove the route where the solar panels would be placed and was alarmed at the amount of farmland that would be consumed, in addition to a mature forest and it would surround our cemetery. Financially, PILOT agreements are typically 15 years. She was told that solar projects are decommissioned after about 15-20 years so she questions how much we would benefit above and beyond the little bit that we get from a PILOT. She said that she hears people say they would rather have solar panels than windmills, but stated that if solar panels are not placed there it does not mean that windmills will be. She asked what would happen if there are wetlands where they want to put solar panels and was told that if there are wetlands then their plan is to build a new one elsewhere to make up for it. She feels that everything is getting muddled with both projects happening at the same time.

Robin Jansen spoke from the audience as a resident and a 12 year Town Board member. She said that she is the only board member left from 2010 when the Verizon Data Center project was presented, but Jon Hotaling was on the Planning Board at the time. She put together a timeline of events for the Verizon Data Center with dates obtained from court documents:

- 09/14/10 CEO presented a letter to the Town Board and Planning Board regarding the request by Verizon to build a data center behind the Babcock House.
- 09/14/10 – TB meeting addressing the request by Verizon
- 09/15/10 – Planning board meeting addressing the request by Verizon
- 09/27/10 – Special meeting of Town Board on Verizon project
- 09/28/10 – ZBA meeting to address the Verizon Project
- 10/4/10- Special meeting of the Town Board on Verizon Project
- 10/8/10 – Verizon submits the development plan for the project
- 10/12/10 – Town Board meeting and Public Hearing
- 10/13/10 – Town Planning Board meeting on Verizon Project
- 10/19/20 – Town Board special meeting on the Rezone of West property to PUD of approx. 179 acres
- 10/20/10 – There was a SEQRA negative Declaration
- 11/1/10 – Town Board special meeting to approve the site plan

She said in about 7 weeks we went from the CEO letter to approval of the rezoning and site plan. She stated that Verizon did not know what they planned on doing with the rest of the site (outside of the data center) so there was no plan for the rest of the PUD. She stated that in 2013 the Town Board rezoned the West property to make it shovel ready and changed the designation from “data center” to business/industrial. She noted that there are two PUD’s. She feels the current project is a win for the Historical Society because the data center will not be behind the Babcock House. As a resident she feels that it is a win because it will not be visible from the road, and with its tech jobs it may bring back some of our youth. For local businesses and construction jobs it is a win with increased foot traffic.

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She went on to say that Beowulf has been working on this for some time, as it was almost 2 years ago that a large group of residents held a rally behind the Babcock House wanting the state to approve a data center for Beowulf. She stated that she does not feel that the project was rushed in 2010 as they followed the defined process. She also does not feel that the current project is being rushed as we are following the defined process. If all of the documents are in place with no outstanding issues she doesn't think the board should delay the decision to allow it. She supports approval of the project.

RESOLUTION 87-2021

EXECUTIVE SESSION

On a motion of Councilwoman Damon, seconded by Councilman Leuer, the following resolution was

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
 Nays 0

Resolved to enter into executive session at 6:58P.M. to discuss a personnel issue.

RESOLUTION 88-2021

EXIT EXECUTIVE SESSION

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
 Nays 0

Resolved to exit executive session at 7:32P.M.

On a motion of Councilwoman Jansen, seconded by Councilman Leuer, the meeting adjourned at 7:33P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk