

TOWN BOARD REGULAR MEETING  
February 9, 2022

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 9<sup>th</sup> day of February 2022.

Present: Robin R. Jansen ----- Deputy Supervisor  
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  
Brian Sibiga ----- Engineer

Absent: Jeffrey M. Dewart----- Supervisor

Present: 10 residents

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

RESOLUTION 40-2022

**APPROVAL OF THE MINUTES**

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

ADOPTED: Ayes 4 Jansen, Hotaling, Damon, Leuer  
Nays 0

Resolved the minutes of the previous meetings on January 5, 2022 and January 26, 2022 are accepted as submitted.

RESOLUTION 41-2022

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

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

ADOPTED: Ayes 4 Jansen, Hotaling, Damon, Leuer  
Nays 0

Resolved the Supervisor's Monthly reports for December 2021 and January 2022 are accepted as submitted.

ANNUAL REPORTS RECEIVED:

Town Clerk  
Fort Hyde Kennels  
Somerset Youth Baseball

RESOLUTION 42-2022

**OPPOSITION TO LIGHTHOUSE WIND PROJECT**

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

ADOPTED: Ayes	4	Jansen, Hotaling, Damon, Leuer
Nays	0	

**WHEREAS**, Apex Clean Energy, through its subsidiary, Lighthouse Wind LLC, has advanced a proposed 201 MW industrial energy facility in the Town of Yates and the Town of Somerset since 2014; and

**WHEREAS**, under the NYS Article 10 Law, the NY State Board on Electric Generation Siting and the Environment must consider any local law or ordinance, but may disregard such local law or ordinance if the Siting Board finds it to be unreasonably burdensome; and

**WHEREAS**, in 2016, the Town of Somerset listened carefully to the residents of the Town and adopted local laws based upon relevant scientific data, recent studies and technological advances, due consideration of the Town of Somerset Comprehensive Plan, and in-depth analysis of the local environmental, economic and cultural conditions of the Town; and

**WHEREAS**, the local laws of the Town of Somerset aim to regulate the placement of commercial and industrial wind energy conversion systems to protect the public safety, health and welfare; to provide a regulatory structure that promotes the protection of the Town's residents; to minimize the adverse impacts on the Town's character, environment, economy and property values; to minimize negative impacts on the Town's unique resources including but not limited to the Great Lakes Seaway Trail, the Lake Ontario shoreline corridor and adjacent lands, waterways and watersheds, and the residential and farming communities of the Town; and

**WHEREAS**, the Siting Board recently approved a wind project in Case No. 16-F-0328 Application of Number Three Wind LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 for Construction of a Wind Project in Lewis County; and

**WHEREAS**, in the decision approving Case No. 16-F-0328, the Siting Board stated, "Other ways a Town can make its intent known with respect to this issue is through the filing of testimony in the proceeding or a town resolution making clear that it does not object to the waiver of specific local laws, and

**WHEREAS**, the Town of Somerset desires to express to the NYS Board of Electric Generation Siting and the Environment and the Office of Renewable Energy Siting that the Town of Somerset explicitly objects to the waiver of any local law; and

**WHEREAS**, over the past six years via multiple town board resolutions and case filings with the Siting Board, the Town of Somerset has repeatedly called upon Apex Clean Energy to completely cancel the Lighthouse Wind LLC project;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Somerset categorically opposes the waiver of any Town of Somerset local law in regards to the application of Lighthouse Wind LLC for a certificate of Environmental Compatibility and Public Need pursuant to Article 10 to construct a 201 MW Wind Energy Facility; and be it further

**RESOLVED**, that the Town of Somerset Town Board authorizes the Supervisor to cosign another joint letter with the Town of Yates Supervisor to the CEO of Apex Clean Energy calling for the cancellation of the Lighthouse Wind LLC project; and be it further

**RESOLVED**, that the Town of Somerset Town Clerk is hereby directed to file a copy of this resolution and the above joint letter with the NYS Public Service Commission under Case No. 14-F-0845, and to send official copies of this resolution and letter to President Joe Biden, Senator Charles Schumer, Senator Kristen Gillibrand, Governor Kathy Hochul, Lt. Governor Brian Benjamin, State Senator Robert Ort, State Assemblyman Michael J. Norris, Orleans County Legislature Chair Lynn Johnson, Niagara County Legislature Chair Rebecca Wydysh, Town of Yates Supervisor James Simon, Lyndonville Central School District Board of Education President Ted Lewis, Barker Central School District Board of Education President Randy Atwater, Village of Barker Mayor Aaron Nellist, and Niagara County Economic Development Commissioner Michael Casale.

#### RESOLUTION 43-2022

#### **OPPOSITION TO NYS CLIMATE ACTION COUNCIL'S DRAFT SCOPING PLAN**

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

ADOPTED: Ayes	4	Jansen, Hotaling, Damon, Leuer
NAYS	0	

**WHEREAS**, the Town of Somerset Town Board supports the prudential judgments of elected local governments – based on the principle of subsidiarity – on how best to protect our environment and work toward a sustainable future for generations to come; and

**WHEREAS**, the Town is in agreement with the 500 prominent climate scientists and professionals (45 of whom are from the United States) who, in 2019, submitted to the United Nations the *European Climate Declaration* stating: “Natural as well as anthropogenic factors cause warming; warming is far slower than predicted; climate policy relies on inadequate models; CO2 is plant food, the basis of all life on Earth; Global warming has not increased natural disasters; climate policy must respect scientific and economic realities; there is no climate emergency”; and

**WHEREAS**, the Town completely supports the thoughtful, logical, and data-driven analysis of the 2021 book, “Unsettled: What Climate Science Tells Us, What It Doesn’t, and Why It Matters,” written by Dr. Steven E. Koonin, a University Professor at New York University, with appointments in the Stern School of Business, the Tandon School of Engineering, and the Department of Physics; who served as Undersecretary for Science in the US Department of Energy under President Obama from 2009 to 2011; who was the lead author of the US Department of Energy’s Strategic Plan (2011) and the inaugural Department of Energy Quadrennial Technology Review (2011); who spent five years as Chief Scientist for British Petroleum; who was – for almost thirty years – a professor of theoretical physics at Caltech (where he also served for nine years as Vice President and Provost); who has served on the National Academy of Sciences, the American Academy of Arts and Sciences and JASON, the group of scientists who solve technical problems for the US government; who served as a trustee of the Institute for Defense Analyses; who is currently serving as an independent governor of the Lawrence Livermore National Laboratory; and who holds a BS in Physics from Caltech and a PhD in Theoretical Physics from MIT;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Somerset rejects the NYS Climate Action Council’s Draft Scoping Plan’s false premises, faulty logic, skewed data, fear-mongering, and dangerous conclusions and recommendations; and be it further

**RESOLVED**, that the Town of Somerset Town Clerk is hereby directed to send official copies of this resolution and letter to Governor Kathy Hochul, Lt. Governor Brian Benjamin, State Senator Robert Ort, State Assemblyman Michael J. Norris, Orleans County Legislature Chair Lynn Johnson, Niagara County Legislature Chair Rebecca Wydysh, Town of Yates Supervisor James Simon, Lyndonville Central School District Board of Education President Ted Lewis, Barker Central School District Board of Education President Randy Atwater, Village of Barker Mayor Aaron Nellist, and Niagara County Economic Development Commissioner Michael Casale.

RESOLUTION 44-2022

**AUTHORIZE COORDINATED REVIEW WWTP IMPROVEMENTS**

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

ADOPTED:	Ayes	4	Jansen, Hotaling, Damon, Leuer
	Nays	0	

**WHEREAS**, the Town of Somerset has experienced high flows resulting in negative impacts to treatment; and

**WHEREAS**, the Town of Somerset has potentially additional demands planned for the Lakeshore site and Power Plant; and

**WHEREAS**, new upgrades to the wastewater infrastructure in the Town of Somerset is necessary to accommodate high flows and future growth; and

**WHEREAS**, these improvements will act to promote high quality public services for both Town and its current and future users; and

**WHEREAS**, in accordance with Part 617 of the implementing regulations pertaining to Article 8 of the State Environmental Quality Review Act (SEQRA), the Town Board of the Town of Somerset has thoroughly reviewed the project and determined that it is an Type 1 Action under SEQR; and

**WHEREAS**, in accordance with Part 617 of the implementing regulations pertaining to SEQRA, the Town has reviewed Part 1 of the Full Environmental Assessment Form (FEAF) and completed Part 2 and Part 3 of the FEAF and reviewed the criteria for determining significance in accordance with Section 617.7 of SEQRA, and

**WHEREAS**, the Town has received funding to implement this project from REDI, which requires completion of a Full Environmental Assessment Form (FEAF) and conducting a Coordinated Review for Type 1 Actions.

**THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Somerset, in accordance with the New York State Environmental Quality Review Act (SEQRA), seeks to conduct a Coordinated Review in order to establish Lead Agency under SEQRA; and

**BE IT FURTHER RESOLVED**, the Wendel, as Town Engineer, is authorized to prepare and distribute the Coordinated Review materials.

#### RESOLUTION 45-2022

##### **AUDIT OF CLAIMS**

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

ADOPTED: Ayes                    4        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. 10 through No. 68	\$ 469,085.78
Highway Fund	No. 1 through No. 10	\$ 56,365.61
Sewer Fund	No. 7 through No. 19	\$ 7,472.52
Water Fund	No. 7 through No. 18	\$ 13,049.49

#### PRIVILEGE OF THE FLOOR

Agnes LaPorte thanked the board for passing the resolution and she asked for clarification on the number of years.

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Betty Wolanyk discussed a visit that she received from Pat Jones, the representative for the AES Solar Project, regarding a good neighbor agreement. She noted some items in the agreement:

- The project components may be closer to the owner's property than is allowable under law.
- The property owner would cooperate fully with the project, including the company's efforts to obtain any environmental impact review, entitlement, approval, etc and not oppose the project in any way.
- The property owner would waive any setback restrictions and consent to noise levels greater than required by law.
- The agreement also includes a gag order and would allow your property to be included in a lender's lien.

Jim Hoffman thanked the highway department for endless hours plowing our roads. He is in favor of the resolutions and would like the board to reaffirm our opt-out resolution to deny PILOTs. Jim advised that AES is two years delinquent on their PILOT payments to the county and school district. As of October the county was owed over \$2 million, and the school is negotiating what they are owed. He would like to see all of our municipalities and politicians inform ORES that AES does not back their obligation.

Dick Ray stated that this company does what they want, and they are soliciting without a permit and there is no excuse for that. He hopes that we can come up with a resolution saying that we don't want solar, just like we did for wind.

Jude Hinton said that she was approached with a good neighbor agreement also by Pat Jones and he showed her a map that showed about 1,000 acres of solar panels. He stated that at least during construction there will be loud noise, lots of trucks, and disruption in the area, thus he is presenting the agreement. Her proposal was half of what was being proposed to Betty and he told her that the amounts will be redacted when they are filed so that each property owner will not know what the other is receiving. She asked about battery placement and was told that he would look into it. She then asked when this is happening and she was told next year, the latest Fall of 2024. She asked if the board has approved this and he said he didn't think so but when it gets to this point it is all but a done deal. She feels this is insulting, dangerous and unethical. She said that there is no provision to safeguard against clear cutting, and we will be disrupting our eagle habitat and creating noise and traffic.

Steve Royce said that NYSEDA is considering putting turbines in the lake and the study will be released probably March or April. At that time there will be a public comment period so he would like everyone to keep their eyes open for that.

Marcia Ray asked what do we do and she is concerned about clear cutting. She said that she is not against individual homes having solar, but doesn't want large industrial projects.

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They are insulting and she wants us to stop them. She discussed an article that was in the Buffalo News this week. The article states that wind and solar are false promises. She asked the board to please give this serious consideration. Marcia asked the board if they have been approached by the company and was told no.

Betty Wolanyk said that Pat Jones is friendly and charming until she gave him her opinion and he told her that this is going to happen so she might as well make some money from it.

Agnes LaPorte asked if there is a list of homeowners that would be affected by this so they can be warned not to sign.

Krista Atwater talked on behalf of the Food Pantry at FUMC. She thanked the Town employees for stepping up and clearing their parking lot so the trucks could get in with the food. She discussed the large amount of cardboard that they accumulate and would like the Town to consider getting a dumpster for cardboard collection. She stated they service 25 – 50 families per month. The mobile food truck serves 90 – 120 families monthly, and they get penalized if the parking lot is not plowed.

Chief Miller advised that the solicitation issue has been brought to his attention. He also advised that he took training in January on female self-defense. His department is setting up a program for college bound girls and women in our community.

On a motion of Councilman Hotaling, seconded by Councilwoman Damon, the meeting adjourned at 6:48P.M. subject to the Call of the Clerk.

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Tracy L. Carmer, RMC  
Town Clerk