

TOWN BOARD REGULAR MEETING
DECEMBER 11, 2019

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 11th day of December 2019.

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

Absent: Michael M. Flint ----- Supt. of Highways
Brian Sibiga ----- Engineer

Attended by: 11 residents

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

RESOLUTION 109-2019

APPROVAL OF THE MINUTES

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

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

Resolved the minutes of the previous meeting on November 6, 2019 are accepted as submitted.

RESOLUTION 110-2019

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

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

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

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

COMMUNICATIONS

Clerk Carmer read an update from Charter Communications, announcing that MLB Strike Zone, NFL Red Zone, and the Outdoor Channel will no longer be available unless you subscribe to the Spectrum TV Sports Pack.

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Clerk Carmer advised that we received the results of our annual Dog Control Officer Inspection Report and the services were found to be satisfactory regarding compliance to NYS Agriculture & Markets requirements.

RESOLUTION 111-2019

OPPOSITION TO LOCAL LAW WAIVER

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

| | | |
|---------------|---|---|
| ADOPTED: Ayes | 5 | Engert, Jansen, Dewart, Hotaling, Damon |
| Nays | 0 | |

WHEREAS, Apex Clean Energy through its subsidiary, Lighthouse Wind LLC, has advanced a proposed 210 MW industrial wind energy facility in the Town of Somerset and Town of Yates since 2014; and

WHEREAS, under the New York State's Article 10 Law, the New York State Board on Electric Generation Siting and the Environment must consider any local law 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 Board listened carefully to the residents of the town and adopted local laws based upon relevant scientific data, recent studies and technological advances; and

WHEREAS, the local laws in 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 of Somerset residents; to minimize the adverse impacts on the Town's character and environment and economy and property values, to minimize negative impacts on the unique resources, including but not limited to, the Seaway Trail, the Lake Ontario shoreline corridor and adjacent lands and waterways, and the residential and farming communities of the Town; and

WHEREAS, the Siting Board recently approved a wind project in Case 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 Located in Lewis County; and

WHEREAS, in the decision approving Case 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

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WHEREAS, the Town of Somerset desires to express to the New York State Board on Electric Generation Siting and the Environment that the Town of Somerset explicitly objects to the waiver of any local law.

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby 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, the Town of Somerset Supervisor is hereby directed to file a copy of this resolution with the New York State Public Service Commission under Case No. 14-F-0485, Lighthouse Wind LLC.

Discussion ensued regarding the Siting Board encouraging towns to allow their local laws to be overridden.

RESOLUTION 112-2019

BUDGET AMENDMENTS

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

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

Resolved as provided in section 107 and section 115 of the New York State Town Law, that the Supervisor of the Town of Somerset is hereby authorized to expend from the unexpended balance or surplus revenues such sums as may be necessary to cover amounts by which the actual expenses were incurred in 2019 in any amount exceeding the amount budgeted.

RESOLUTION 113-2019

ENCUMBRANCES

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

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

Resolved the funds for invoices of goods not received in 2019 are hereby encumbered.

RESOLUTION 114-2019

PREPAY INVOICES

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

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

Resolved that all bills incurred for 2019 are authorized to be pre-paid.

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RESOLUTION 115-2019

YEAR-END AUDIT

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

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

Resolved that the Audit Committee, consisting of Councilwoman Damon and Councilman Dewart, are authorized and directed to perform the year-end audits of the Town Clerk, Code Enforcement Officer, Supervisor, Justice and Tax Collector on a date and time to be determined.

RESOLUTION 116 -2019

AUDIT OF CLAIMS

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

ADOPTED: Ayes 5 Engert, Jansen, Dewart, Hotaling , Damon
 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. 394 through No. 431 | \$ 66,273.94 |
| Highway Fund | No. 123 through No. 133 | \$ 41,396.49 |
| Sewer Fund | No. 118 through No. 129 | \$ 8,662.95 |
| Water Fund | No. 94 through No. 98 | \$ 1,403.62 |

PRIVILEGE OF THE FLOOR

Jim Hoffman thanked the board for their work and said he hopes APEX leaves town. He questioned the resolution opposing the local law waiver, being concerned that Towns can wipe out all of the work put into Master Plans. Supervisor Engert and Attorney Haylett responded that Towns cannot wipe out the laws, but can pass a resolution to waive the laws. Supervisor Engert stressed that our resolution is to oppose waiving our laws.

Steve Royce said his understanding is that in order to change the local law you would have to hold a public hearing and feel the wrath of the people, so in order to avoid this that Town opted to adopt a resolution.

Cathi Orr thanked the board for opposing the waiving of our local laws.

Charlie Neal asked if we should change the verbage on the resolution since it is centered around APEX only. What if someone wants to come in with some other large scale project? Attorney Haylett so we could do another resolution addressing others.

Norm Jansen said Merry Christmas and Happy New Year from the Planning Board.

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RESOLUTION 117-2019

EXECUTIVE SESSION

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

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

Resolved to enter into execution session at 6:23PM to discuss a personnel matter of a particular person.

RESOLUTION 118-2019

RETURN FROM EXECUTIVE SESSION

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

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

Resolved to exit executive session at 6:40PM.

RESOLUTION 119-2019

2020 REORGANIZATIONAL MEETING

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

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

Resolved the reorganizational meeting of the Town Board will be held on January 7, 2020 at 6:00PM.

On a motion of Councilman Hotaling, seconded by Councilwoman Jansen, the meeting adjourned at 6:42P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk