

Town of Yates April Board Meeting
8 S. Main St., Lyndonville, NY 14098
April 13, 2017, 7:00PM

Present: James Simon, Supervisor
Wes Bradley, Councilman
Jim Whipple, Councilman
Michele Harling, Town Clerk
Andrew Meier, Town Attorney
Roger Wolfe, Highway Superintendent

Excused: Brad Bentley, Councilman
John Riggi, Councilman
Trisha Laszewski, Town Assessor
Dan Wolfe, Code Enforcement Officer

Others:	Larry Wolfe	Chris Bronson	Bob LaPorte
	Agnes LaPorte	Scott Buffin	Bob Verheyen
	Cynthia Hellert	Anne Smith	Richard Pucher
	Russ Martino	Pam Atwater	Georgette Stockman
	Jim Bansbach	Steve Royce	Maryellen Royce
	Chris Craft	Taylor Quarles	Paul Lauricella
	Kate Kremer	Betty Wolanyk	Alice Wolanyk
	Bruce Williams		

Supervisor Simon called the April Board Meeting to order at 7:00PM.

PLEDGE OF ALLEGIANCE

SUPERVISOR REMARKS

Supervisor Simon reminded the audience to try and keep public comment to 3 minutes or if necessary, to submit lengthy comments to the Town Board in writing for their review.

PRIVILEGE OF THE FLOOR ON AGENDA ITEMS ONLY

Paul Lauricella, Town of Yates, questioned Resolution #45-4/17 and whether or not it was the same content that was discussed at the last Yates Planning Board meeting with regard to regulations.

Supervisor Simon responded that it has been refined and further reviewed by Hodgson Russ for their legal opinion. He added that Andrew Meier also reviewed the Solar Law, along with the Yates Code Enforcement Officer, Dan Wolfe.

RESOLUTION NO. 44-4/17

RESOLUTION TO APPROVE MINUTES

RESOLVED, to approve the minutes of the March 16, 2017 regular Board Meeting as presented to each Board Member.

Offered by Councilman Bradley, who moved its adoption
Seconded by Councilman Whipple

3 Ayes 0 Nays (2 Absent: Bentley, Riggi)

Motion: Carried

RESOLUTION NO. 45-4/17

RESOLUTION TO INTRODUCE LOCAL LAW NO. 1 OF 2017, SCHEDULE A PUBLIC HEARING, AND REFER TO COUNTY PLANNING BOARD

WHEREAS, the Town Board has developed proposed regulations for the construction of solar energy generation facilities in the Town, and

WHEREAS, the Board wishes to proceed with the adoption of the regulations through the enactment of a Local Law, now, therefore, be it

RESOLVED, that the Town Board hereby introduces for adoption Proposed Local Law No. 1 of 2017, entitled "A Local Law Enacting Solar Energy Systems Regulations", in the form annexed hereto, and be it further

RESOLVED, that pursuant to General Municipal Law § 239-m, the action is subject to review by the County Planning Board, and the Attorney for the Town is directed to send a copy of the Proposed Local Law to the Orleans County Department of Planning, and be it further

RESOLVED that the Town Board hereby schedules a Public Hearing on the Adoption of Proposed Local Law 1 of 2017 to be held at Town Hall on the 8th day of May, 2017, at 6:00pm, and the Town Clerk is directed to post Notice of the Public Hearing and to publish same in the Batavia News as required by law.

Offered by Councilman Whipple, who moved its adoption
Seconded by Councilman Bradley

3 Ayes 0 Nays (2 Absent: Bentley, Riggi)

Motion: Carried

RESOLUTION NO. 46-4/17

RESOLUTION TO ALLOW YATES TOWN SUPERVISOR TO SIGN VILLAGE/TOWN
AMBULANCE SHARED SERVICE AGREEMENT WITH VILLAGE OF MEDINA

WHEREAS, the Village of Medina has presented to the Town of Yates a contract for a shared ambulance service agreement as follows:

VILLAGE/TOWN AMBULANCE SHARED SERVICE AGREEMENT

This Shared Services Agreement (known as the “Agreement”), made as of the 9th day of March, 2017, supersedes the Agreement between the VILLAGE OF MEDINA, TOWN OF YATES, TOWN OF SHELBY and the TOWN OF RIDGEWAY dated July 18, 2007.

This Agreement, made as of the 9th day of March, 2017, by and between the VILLAGE OF MEDINA, a municipal corporation in Orleans County, State of New York, with its principal offices at 119 Park Avenue, Medina, New York 14103, hereinafter referred to as the “VILLAGE”, and the TOWN OF YATES, the TOWN OF SHELBY and the TOWN OF RIDGEWAY, municipal corporations situate in Orleans County, State of New York, with principal offices at 8 South Main Street, Lyndonville, New York 14098, 4062 Salt Works Road, Medina, New York 14103, and 410 West Avenue, Medina, New York 14103, respectively, hereinafter referred to as the “TOWNS”.

WHEREAS, the VILLAGE is the owner and operator of an ambulance service, together with equipment and supplies necessary for primary ambulance services, and has provided such service as needed, for sick or injured persons found within the boundaries of the VILLAGE; and

WHEREAS, the TOWNS have no such service, and have previously contracted with the VILLAGE for such service, and are desirous of continuing contracting from the VILLAGE for ambulance for sick or injured persons found within the boundaries outside the VILLAGE.

NOW, THEREFORE, in consideration of the premises and the covenants hereinafter contained and pursuant to the General Municipal Law of the State of New York, it is agreed between and among the parties hereto as follows:

1. The VILLAGE agrees to provide primary ambulance service, as needed, for the purpose of providing advanced life support services and transporting sick or injured persons found within the boundaries of the TOWNS and their hamlets and villages, as long as the VILLAGE operates an ambulance service for the term of this Agreement.
2. Each of the parties will appoint a member of their Town Boards to an Ambulance Advisory Board, which shall be chaired by the Mayor or designee of the VILLAGE. The Fire Chiefs of each fire company within the territory covered by this Agreement shall also be members of the Ambulance Advisory Board. The Advisory Board will meet at least semi-annually, once in January and once in June, or upon written request to the Mayor of the VILLAGE or by any Town Supervisor. The primary goals of the Advisory Board are to recommend to the VILLAGE ways to help eliminate the deficit, as well as recommend ways to enhance and expand services.

3. Billing for ambulance service will be handled by the VILLAGE OF MEDINA or its contractor or designee. Rates charged for ambulance services provided outside the VILLAGE OF MEDINA, in the Towns of Ridgeway, Shelby and Yates will be the same for ambulance service in the VILLAGE OF MEDINA. The Village Board, in its sole discretion, reserves the right to make reasonable adjustments to the mileage and other charges as deemed necessary as circumstances warrant.

4. The TOWNS and the VILLAGE OF MEDINA, collectively, agree the cost of an ambulance is \$160,000.00, which has an eight (8) year depreciation. Each TOWN and the VILLAGE OF MEDINA agree to include \$80,000.00 (\$20,000.00 depreciation per year x 4 ambulances) annually to the deficit of the VILLAGE OF MEDINA ambulance budget. (The deficit will be determined by subtracting the total amount of ambulance revenue collected in the VILLAGE fiscal year from the budgeted ambulance account). The VILLAGE OF MEDINA agrees to add the collective amount of \$80,000.00 to a dedicated ambulance replacement reserve fund in its annual budget. It is also collectively agreed that the cost of the ambulance may need to be adjusted during the contract to allow for increased cost. Each TOWN's and the VILLAGE's pro-rata shared service will be determined by the percentage of ambulance responses in their respective TOWNS during the period between September 1 through August 31 of the preceding year. The VILLAGE will notify the TOWNS by September 30th, of the amount owed to the VILLAGE for the succeeding calendar year. The VILLAGE will recalculate the contract payment on a yearly basis as per the attached formula. In addition, if there should be a surplus in the ambulance budget fund, said surplus shall be utilized to reduce the cost of the ambulance service as calculated herein on the aforementioned pro-rata basis. Upon request of a Town, the Village will send a monthly ambulance and fire report to said Town within a reasonable period of time following the request.

5. Each TOWN agrees to make payment to the VILLAGE on February 15th, of each year of this Agreement. The TOWNS of RIDGEWAY and SHELBY shall levy all payments made to the VILLAGE pursuant to this Agreement against parcels situated outside the VILLAGE, and shall not assess the cost of residential property owners on a town-wide basis.

6. The VILLAGE has the right to pursue both soft and hard billing, as well as the use of a collection agency to users of the ambulance service who do not pay or make payments to the VILLAGE for services rendered.

7. The VILLAGE agrees that it, or its designee or agent, will keep and maintain records of the names and addresses of the persons served by the VILLAGE's ambulances and the mileage traveled in connection with the service rendered to such persons.

8. The VILLAGE reserves the exclusive right to formulate rules and regulations relating to the operation and maintenance of the ambulance, equipment, and personnel involved in providing such emergency service. However, the VILLAGE will take in to consideration any recommendations of the Ambulance Advisory Board with regard to the operation of the ambulance service.

9. The VILLAGE agrees to:

a. Maintain the confidentiality of patient information acquired in the course of providing services under this Agreement, and will not release any confidential information without prior written authorization from the patients duly authorized representative in accordance with state law;

b. Maintain all certifications and licenses, as required by local and state agencies governing ambulance operations;

c. Keep the TOWNS informed of its policies, procedures and activities that have a bearing on the VILLAGE fulfilling its obligations under this Agreement; and

d. Provide ambulance and advanced life support services in a manner that does not discriminate against any person on the basis of age, sex, marital status, sexual orientation, race, religion, ancestry, national origin, disability, handicap, health status or other unlawful basis, including, without limitation, the filing by a person of a complaint, grievance, or legal action against the VILLAGE, TOWNS or another person or entity.

10. The VILLAGE agrees to maintain general liability, professional medical malpractice, auto, bodily injury and property damage liability insurance coverage in reasonable amounts satisfactory to all parties of this Agreement, and Workers' Compensation and disability benefits coverage as required by the State of New York.

11. The TOWNS agree to indemnify and hold harmless the VILLAGE, its employees and agents, from and against any and all claims, losses, liability, cost or expenses, including reasonable attorney's fees, arising out of bodily injury (including death), or property damage, that occur as a result of the intentional, reckless or negligent acts or omissions of the TOWNS, their employees or agents.

12. The VILLAGE agrees to indemnify and hold harmless the TOWNS, their employees and agents from and against any and all claims, losses, liability, cost or expenses, including reasonable attorney's fees, arising out of bodily injury (including death), or property damage, that occur as a result of the negligent acts or omissions of the VILLAGE, its employees or agents.

13. No right or obligation hereunder may, in any way whatsoever, be assigned or delegated to a third party without the express prior written consent of the other parties, and any attempted assignment without such consent shall be considered null and void.

14. The term of this Agreement shall run for five (5) years, commencing on the complete execution of the Agreement by all its signing parties. This Agreement may be extended by any party hereto as set forth herein. This Agreement will remain in effect until any of the parties give notice to the other parties of its intentions to terminate this Agreement, which said notice shall be given at least ninety (90) days prior to termination. Said notice to terminate this Agreement shall be in writing to the main business address of the respective parties to this Agreement, and shall terminate this Agreement upon ninety (90) days notice, with no additional rights or responsibilities being conferred to any party to the Agreement. Upon said proper Notice of Termination of this Agreement, any amounts due and owing under this Agreement, or

overpaid, will be remitted on a pro-rated basis using the final date of termination of this Agreement.

15. Notices. Any notice or communication by any Party to the other, required or permitted hereunder, shall be in writing and shall be deemed duly served as of (a) the date it is delivered by hand, (b) three (3) business days after having been mailed by certified mail, postage prepaid, return receipt requested, or (c) the next business day after having been sent for delivery on the next business day, shipping prepaid, or by a national recognized overnight courier, in each case to the receiving Party at the address set forth below, or at such other address as a Party may designate by written notice to the other Party sent in the manner set forth herein.

To the Village at:	119 Park Avenue Medina, New York 14103 Atten: Mayor
To the Town of Ridgeway:	410 West Avenue Medina, New York 14103 Atten: Supervisor
To the Town of Shelby:	4062 Salt Works Road Medina, New York 14103 Atten: Supervisor
To the Town of Yates:	8 South Main Street P.O. Box 484 Lyndonville, New York 14098 Atten: Supervisor

Either Party may change its address(es) for purposes of this paragraph by giving the other Party notice of the new address(es) in the manner set forth above.

16. Waiver. A waiver of any of the terms and conditions hereof shall not be deemed a continuing waiver, but shall apply solely to the instances to which the waiver is directed. No waiver of any of the terms of this Agreement shall be valid unless in writing and designated as such. Any forbearance or delay on the part of any Party in enforcing any of its rights under this Agreement will not be construed as a waiver of such right to enforce same for such occurrence.

17. Dispute Resolution. If a Party to this Agreement has reasonable grounds to believe that another Party hereto has failed to perform any obligation hereunder, such Party shall promptly notify the other Party, in writing, within thirty (30) days of receipt of such notice and either provide evidence of cure of such failure, or provide an explanation of why it believes that its performance is in accordance with the terms and conditions of this Agreement, and also specify three (3) dates, all of which must be business days within thirty (30) days from the date of its response, for a meeting of the designated representatives of the Parties, each of whom shall have the authority to resolve and settle the dispute. The Party claiming failure of performance shall then select one (1) of the three (3) dates, and a dispute resolution meeting shall be held. If the

Parties cannot, in good faith discussions, resolve their dispute, they shall be free to pursue all remedies allowed at law and/or in equity, without prejudice.

18. Entire Agreement. Each Party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms. This Agreement (including all appendices, schedules, exhibits, or addenda attached hereto constitutes the entire agreement and understanding of the Parties, and supersedes all prior and contemporaneous proposals, agreements and understandings, oral and written, relating to the subject matter of this Agreement.

19. Applicable Law. This Memorandum shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to principles or conflicts of law.

20. Severability. If any provision of this Agreement shall be held by any court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be of no force and effect, and such invalidity, illegality, or unenforceability shall have no effect upon, and shall not impair the enforceability of, any other provision of this Agreement.

21. Force Majeure. Neither party hereto shall be liable to the other for default or delay in the performance of any of its obligations hereunder due to act of God, accident, fire, flood, storm, riot, war, act of terrorism, sabotage, explosion, strike, concerted acts of workers, national defense requirement, governmental law, ordinance, rule or regulation (whether valid or invalid), act of any non-Party governmental body (including any delay in decisions regarding permits, authorizations or funding, or delays in funding, by any governmental authority), extraordinary failure of equipment or apparatus, inability to obtain electricity or other type of energy, feedstock, raw or finished material from normal sources of supply, labor, equipment, transportation, permits, or licenses, or any similar or different contingency beyond its reasonable control which would prevent or delay performance or make performance commercially impracticable.

22. Modifications. No modification of this Agreement shall bind any Party unless expressly set forth, in writing, and manually signed and accepted by an authorized representative of the Party sought to be bound by such writing.

23. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument, and any of the Parties or signatories hereto may execute this Agreement by signing any such counterpart.

24. Headings and Drafting of Agreement. Any headings contained in this Agreement are used only as a matter of convenience and reference, and are, in no way, intended to define, limit, expand, or describe the scope of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement.

RESOLVED, that the Yates Town Board authorizes the Yates Town Supervisor to sign said contract.

Offered by Councilman Whipple, who moved its adoption
Seconded by Supervisor Simon

3 Ayes 0 Nays (2 Absent: Bentley, Riggi)

Motion: Carried

RESOLUTION NO. 47-4/17

RESOLUTION TO PAY BILLS

WHEREAS, bills have been reviewed by the Town Board, be it

RESOLVED to pay bills as follows:

A-Accounts-	\$ 34,214.59
B-Accounts-	\$ 1,852.40
DA-Accounts-	\$ 25,835.57
DB-Accounts-	\$ 3,185.22
Fire-	\$ 33,300.00
Water 4-	\$ 6,936.97
Water 2-	\$

TOTAL \$105,324.75

Offered by Councilman Bradley, who moved its adoption
Seconded by Councilman Whipple

3 Ayes 0 Nays (2 Absent: Bentley, Riggi)

Motion: Carried

PRIVILEGE OF THE FLOOR

Pam Atwater, Town of Somerset, submitted documentation from the March 2017 Save Ontario Shorelines Newsletter that was titled: "Industrial Wind Turbines and Health: Information and Testimonials". She stressed that it contained current testimony from people that live in close proximity to three different wind farms and how their lives and well-being have been impacted.

Kate Kremer, Town of Yates, submitted a Canadian Study conducted in 2004 titled: "Environmental and Workplace Health Wind Turbine Noise and Healthy Study: Summary of Results". She pointed out that the study findings support a possible link between long term high

annoyance and health and that wind turbine annoyances like noise, shadow flicker, blinking lights, vibrations, and visual impacts increase with wind turbine noise.

Scott Buffin, Town of Yates, asked the Board if there would be a copy of the Village/Town Ambulance Shared Service Agreement as passed in Resolution No. 46-4/17. He also asked if anything in the agreement has changed from the last meeting.

Supervisor Simon responded that nothing has changed and added that although the Board does have concerns, it was the best they had.

Anne Smith, Town of Yates, discussed a study that was conducted in Maine, 1 mile from the Canadian line, which found that residents living in close proximity to wind turbines suffered from sleep disturbances, headaches, migraines, sleeplessness, depression, stress, anger, anxiety, ringing in the ears, and dizziness. She added that these are life altering symptoms.

Chris Bronson, Town of Somerset, played taped testimony from a gentleman in Wyoming County who said that even from a distance of 6-12 miles away from a wind turbine people have experienced symptoms like lack of motivation, fatigue, lameness, and arthritic symptoms.

Agnes LaPorte, Town of Somerset, said that noise can affect brain activity and can cause anxiety, sorrow, nervousness, and chest pressure. She added that low frequency sound does have an impact on people.

Cynthia Hellert, Town of Yates, submitted documentation that outlines the steps she took in contacting health officials directly to determine the consequences of living in close proximity to wind turbines. She feels that it is necessary to conduct a baseline health study while we still have a chance, regardless of the time it takes. She added that APEX feels that a baseline health study is not feasible because it is too time consuming.

Maryellen Royce, Town of Appleton, continued reading from Cynthia Hellert's submitted documentation adding that APEX has forced themselves upon the communities of Yates and Somerset and has no vested interest in our health and wellbeing. She added that it's important for the Boards to have the facts and concerns of their citizens before the project is built so that they can protect their constituents from harm while they still have a chance.

Steve Royce, Town of Appleton, continued reading from Cynthia Hellert's submitted documentation. He summarized the testimony from 4 families who have been negatively impacted by wind turbines. These families have experienced the following symptoms: ear problems, migraines, flulike symptoms, headaches and sleeping problems.

Paul Lauricella, Town of Yates, discussed the New York State Local Retirement System and Town protocol for employees that retire from NYSLRS but continue employment with the Town. He felt that the Yates Highway Superintendent's retirement from NYSLRS was done secretly and asked if there was a letter of resignation submitted.

Supervisor Simon responded that his case was reviewed and that nothing was wrong with the way it was handled, everything was done correctly. He added that if Paul has additional concerns he would be glad to meet with him to discuss them.

Paul Lauricella, Town of Yates, asked the Town to consider passing local legislation that would affect future retirees of the Town in an effort to protect the taxpayers.

Andrew Meier, Town Attorney concurred with Supervisor Simon by adding that he looked into it and it was all done properly and that no local or state laws were violated.

Taylor Quarles, Lighthouse Wind, said that he frustrated over the lack of facts in the community and that he works diligently to answer questions and concerns. He added that the application will answer a lot of resident's questions but first they have to get through the stipulation process. He is committed to following the process even if it's not perfect and still holds regular office hours in their Barker office.

Betty Wolanyk, Town of Somerset, submitted documentation about her personal experience with APEX. She said that although wind companies have stated that they will not go where they are not wanted, that is obviously not the case. She added the fact that APEX sued the Town of Somerset to be able to build 2 MET Towers is evidence of that. She believes that as long as APEX has enough leases signed, that's considered community acceptance.

TOWN OFFICERS REMARKS

Roger Wolfe, Highway Superintendent, said that the Town no longer has to pay toward his retirement which is saving taxpayer's money. He told the Board that the cemetery is drying up and they are able to get in there and clean it up. They have been working on cleaning debris from the culvert pipes and grading gravel roads. He mentioned that there was a water break on Murdock Road that has been repaired. He added that he expects approximately \$17,000 - \$18,000 more from the State through the CHIPS Program.

Supervisor Simon asked if we receive that money in 1 or 2 payments.

Roger responded that we are reimbursed after we prove our expenditures as we submit the claims. They could be paid in single or multiple payments.

Councilman Whipple thanked Dan Wolfe for the enforcement that he is currently working on and added that it needed to be done.

Supervisor Simon mentioned that the Bond for Water District 4, Phase 10 will be wired next week and that he is very excited to start working on this final phase.

ADJOURNMENT

Moved by Councilman Whipple, Whereas there is no new business to be brought before the Board, the meeting be adjourned at 7:50PM.

Seconded by Councilman Bradley

3 Ayes 0 Nays (2 Absent: Bentley, Riggi)

Motion:Carried

Respectfully Submitted
Michele L. Harling, Town Clerk