

Town of Yates August Board Meeting and Public Hearing
8 S. Main St., Lyndonville, NY 14098
August 10, 2017, 7:00PM

Present: Jim Simon, Supervisor
Wes Bradley, Councilman
Brad Bentley, Councilman
John Riggi, Councilman
Michele Harling, Town Clerk
Andrew Meier, Town Attorney
Trisha Laszewski, Assessor
Dan Wolfe, Code Enforcement Officer

Excused: Jim Whipple, Councilman
Roger Wolfe, Highway Superintendent

Others : Larry Wolfe Paula Simon Anne Smith
Cynthia Hellert Richard Hellert Shirley Plummer
Bob LaPorte Agnes LaPorte Donna Bane
Paul Lauricella Robert T. Doughty Ruth Doughty
John Zimmerman Susan Dudley Christine Zimmerman
Kate Kremer James Hoffman Wendy Thering
Roger Thering Roger Barth, Jr. Sullivan Barth
Linda Fisk Dennis Seekins Rob Panasci
Neil Habig Taylor Quarles Howard Pierce
Becky Winters Georgette Stockman Maryellen Royce
Steve Royce Judy Esposito Kathy Evans
Adam Bachman Ashley Bachman Jennie Robison
David Robison Alice M. Wolanyk Betty Wolanyk
Roger Barth Tom Rivers

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

PLEDGE OF ALLEGIANCE

SUPERVISOR REMARKS

Supervisor Simon explained that the Public Hearing will commence after the Regular Board Meeting and that immediately following, the meeting will close for attorney client privilege matters. He added that the Board will be available to talk with residents after that.

PRIVILEGE OF THE FLOOR ON AGENDA ITEMS ONLY

Cynthia Hellert, Town of Yates, asked the Board if Resolution No. 70-8/17 will be explained later in the meeting.

Supervisor Simon responded that it would be explained in detail and that there will be further explanation and discussion at the Public Hearing.

RESOLUTION NO. 65 -8/17

RESOLUTION TO APPROVE MINUTES

RESOLVED, to approve the minutes of the July 13, 2017 regular Board Meeting as presented to each Board Member.

Offered by Councilman Bentley, who moved its adoption

Seconded by Councilman Riggi

4 Ayes 0 Nays 1 Absent (Whipple)

Motion: Carried

RESOLUTION NO. 66 -8/17

RESOLUTION TO APPROVE MINUTES

RESOLVED, to approve the minutes of the July 13, 2017 Public Hearing as presented to each Board Member.

Offered by Councilman Riggi, who moved its adoption

Seconded by Councilman Bentley

4 Ayes 0 Nays 1 Absent (Whipple)

Motion: Carried

RESOLUTION NO. 67-8/17

RESOLUTION TO APPROVE MINUTES

RESOLVED, to approve the minutes of the August 7, 2017 Workshop Meeting as presented to each Board Member.

Offered by Supervisor Simon, who moved its adoption

Seconded by Councilman Bentley

3 Ayes 0 Nays 1 Abstain (Bradley) 1 Absent (Whipple)

Motion: Carried

RESOLUTION NO. 69-8/17

RESOLUTION TO ACCEPT TOWN OF YATES MUNICIPAL COURT AUDIT BY AMATO, FOX & COMPANY, PC

WHEREAS, Amato, Fox & Company, PC has audited the financial statements of the Town of Yates Municipal Court for the year ending December 31, 2016, be it

RESOLVED, that the Town of Yates hereby accepts the audit by Amato, Fox & Company, PC.

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

4 Ayes 0 Nays 1 Absent (Whipple)

Motion: Carried

RESOLUTION NO. 70-8/17

RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW NO. 2 OF 2017 TITLED “LAKE ONTARIO AND CONNECTED WATERWAYS ASSESSMENT RELIEF ACT OF 2017” AND TO SCHEDULE A PUBLIC HEARING

WHEREAS, the Town Board of the Town of Yates, New York desires to consider adopting legislation to implement the Lake Ontario and Connected Waterways Assessment Relief Act of 2017, known as Town of Yates Local Law No. 2 of 2017, be it

RESOLVED that proposed Local Law No. 2 of 2017 entitled “A Local Law Implementing the Lake Ontario and Connected Waterways Assessment Relief Act of 2017”, which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, is hereby introduced for adoption; and be it further

RESOLVED that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and a copy thereof be kept on file in the office of the Town Clerk until August 23, 2017, and that a public hearing be held before this Town Board on the 23rd day of August, 2017, at 7:00 p.m. at the Yates Town Hall, 8 South Main Street, Lyndonville, New York, on the advisability of enacting said proposed Local Law; and be it further

RESOLVED that the Town Clerk shall cause notice of said public hearing to be published once in The Batavia Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk's Office.

Offered by Councilman Bentley, who moved its adoption
Seconded by Councilman Riggi

4 Ayes 0 Nays 1 Absent (Whipple)

Motion: Carried

Trisha Laszewski, Town Assessor explained that this exemption for assessment relief applied to structural improvements only, not to include decks, docks, break walls, shoreline protection, etc... The calculation of the exemption is the percentage of the structure lost, as applied to the assessed value, not the cost of the structure. Trisha explained a hypothetical case where a shed was damaged and the approximate tax savings with the exemption in place. If this exemption is adopted by the Town, it would not affect the County or School tax.

Supervisor Simon mentioned that the Board had just heard about the exemption and because there is a timing element to it, they needed to get the Public Hearing done as soon as possible. He added that not many of the Towns are adopting the exemption and to call the Town Hall with questions.

RESOLUTION NO. 71-8/17

RESOLUTION TO PAY BILLS

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

RESOLVED to pay bills as follows:

A-Accounts-	\$ 25,325.65
B-Accounts-	\$ 1,938.09
DA-Accounts-	\$ 5,007.17
DB-Accounts-	\$ 11,842.20
Water 4-	\$ 32,742.85
Water 2-	\$
Youth-	\$ 6,929.26
Fire-	\$

TOTAL \$ 83,785.22

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

4 Ayes 0 Nays 1 Absent (Whipple)

Motion: Carried

PRIVILEGE OF THE FLOOR

Paul Lauricella, Town of Yates, mentioned that the Town is paying too much for bookkeeping services and software. He called another Town in the County where they were paying much less and are able to reduce the tax burden every year and urged the Yates Town Board to shop around

for the best prices. He believes that it's time to change the way things have always been done here. Lastly, he questioned when the rest of the East Yates Center Road will be paved.

Supervisor Simon responded that it will be started this week or next, weather permitting.

Kate Kremer, Town of Yates, said that SOS enjoyed meeting and conversing with residents at the Orleans County Fair. She mentioned speaking to a Town of Sheldon resident where a wind farm is located. He explained that at first their Town did not have a Town tax but that now they do pay a Town rate. He added that the developers of the wind farm were not following the terms of the lease agreements and that the Town of Yates should be careful.

TOWN OFFICERS REMARKS

Dan Wolfe, Code Enforcement Officer, said that he continues to work with the DEC who has been expediting the permit process for shoreline protection. He says that they have processed 41 permits in the Town of Yates to date. He added that the Army Corps of Engineers has also been helpful.

Supervisor Simon added that the Town website is updated frequently to provide applications and other resources as they become available.

Tricia Laszewski, Town Assessor, mentioned that although she is only in the Town of Yates on Friday's, that she can be reached anytime in the Town of Ridgeway.

Councilman Bradley thanked Dan for his efforts in working with residents and the DEC to work through the lakefront erosion permitting process. He announced that this Saturday there will be a hazardous waste drop-off at the Orleans County Highway Department in Albion and that people must register before dropping off waste materials. No electronic equipment will be accepted.

Councilman Bentley said that as per Roger Wolfe's notes to the Board, roadwork on the East Yates Center Road will start next week. The water line on Ward Road is ready to go and Pilon Construction is doing a great job.

Councilman Riggi read a statement he wrote to address recent correspondence that he, the Yates Town Board, and Yates Special Counsel, Dan Spitzer, had with APEX and their legal counsel, Young/Sommer with regard to a list of questions that Councilman Riggi presented at the MET Tower public hearing last month. He feels that they have "flatly refused" to answer any of his questions or requests. He urged the Board not to vote on the MET tower until they are satisfied that all required information is received so that they can make an informed decision.

PUBLIC HEARING

The Public Hearing opened on July 13th, 7:30pm, regarding the Special Use Permit application of Lighthouse Wind, LLC for a MET Tower to be located on a parcel of land Northeast of West Yates Center Road and Route 269 in the Town of Yates.

The Public Hearing was officially transcribed by a stenographer and the transcripts are posted on the Town of Yates website and available at the Town Hall.

The Public hearing was held open at the end of the July 13, 2017, meeting, and was continued at the August 10, 2017 board meeting.

Supervisor Simon asked the audience to keep all comments to a 3 minute maximum, to address the Board and not each other, and to refrain from saying the same thing that they said at last month's public hearing.

PUBLIC COMMENT

Rob Panasci, Special Counsel to APEX, said that the MET Tower application does not fall under the Article 10 obligations. He mentioned the recent letter written by Councilman Riggi and said that they responded to the points that were relevant to the temporary MET Tower application. He said that many of Councilman Riggi's questions did not pertain to the project because it was a Type 2 action. Lastly he said that this was the last MET tower for the project that was needed to collect data and that they would be happy to provide information if it pertains to the current application.

Roger Thering, Town of Yates, feels that games are being played. He said to let the MET tower be built; the results may show that they don't want to build here.

Maryellen Royce, Town of Appleton, thanked Councilman Riggi for his letter and felt that the response from APEX was arrogant.

Kate Kremer, Town of Yates, thanked Councilman Riggi for his comments and takes issue with APEX's unwillingness to answer questions. She fears that if they are not willing to cooperate and answer questions on a small scale MET tower, will they respond when questioned on a large scale project. She said that it would be a show of good faith if they answered questions even if it wasn't required.

David Robison, Town of Yates, feels that it is ironic that people want more information yet are opposed to the MET tower being erected. He says that the MET tower and the data it collects is necessary and paid for by APEX- no cost to the community. He feels that scientific data and good facts are essential to make the best choices for the future.

Roger Barth, Town of Yates, said that it would be nice if APEX would "share" the information that they have, but that they are unwilling to do so. He urged the Board to vote "no" to the MET tower application.

James Hoffman, Town of Somerset, stated that his property will be in the middle of all of the proposed turbines and that APEX has provided insufficient information and justification. He said that the design of the MET towers will be lethal to birds and that 6 people have lost their lives in MET tower related accidents. Regardless of Article 10, the MET tower is part of a larger project that the communities do not want. He urged the Board to reject the application.

Shirley Plummer, Town of Somerset, said that she loves our communities and that we should preserve its nice, beautiful and rural character. She feels that the turbines will only benefit a few individuals and urged the Board to continue to work against the project.

Linda Fisk, Town of Yates, stated that she has lived here since 1943 and that at that time the Town was beautiful and successful. Now there is nothing in this Town. She said that the project could give the Town a chance again.

Dennis Seekins, Town of Yates, left the community because there were not good jobs available but came back 20 years ago. He feels that the project would be a plus to the community.

Georgette Stockman, Town of Yates, submitted an Advisory Circular from the US Department of Transportation Federal Aviation Administration dated 12/04/15 that sets forth standards for marking and lighting obstructions to navigable airspace. She questioned whether APEX is proposing to use the recommended safety measures on the MET tower.

Cynthia Hellert, Town of Yates, is concerned that the questions submitted by residents to the Board for APEX will not be answered. She questioned why APEX did not disclose a fatality involving a crop duster and an APEX MET tower. She added that the first MET tower in the Town was too close to a local airport and that the location of the proposed second MET tower is not appropriate.

Agnes LaPorte, Town of Somerset, stated that APEX now has 3 MET towers in place and that all of the information gathered has been proprietary with no information shared. She said that even if APEX was willing to share information, would it be honest and true. Two thirds of the communities are against the project. APEX sued Somerset and will be looking for a reason to sue the Town of Yates too.

BettyWolanyk, Town of Somerset, said that Somerset was sued by APEX and if the Town of Yates votes against the MET tower they will be sued too. She feels that we will never see the information gathered and that at least if the Town was sued it will delay the project as evidence against the wind project continues to build.

Becky Winters, Town of Yates, stated that in the late 1960's and early 1970's the Town was booming. Now it's not.

Susan Dudley, Town of Yates, said that she has been a lifelong lakefront resident and saved all her life to build a home here and pay her taxes. She said that regardless of whether or not the MET tower is part of the Article 10 process, it is part of the overall project and allowing it implies that we are willing to move ahead with the project.

Paula Simon, Town of Yates, said that we don't need an out of state company to come into the Town to make it "booming" again. She said that the only "booming" from this project will be from the trucks going up and down the road. She added that it's not up to the Town Board alone to bring business back to the area; residents can work on that too. She also noted that APEX sees

this MET tower as part of the Lighthouse Wind project for their lawyer just said, “this is the last MET tower needed for the project”.

Judy Esposito, Town of Yates, stated that she has not lived here her entire life; just the last 20 years, and that she’s not here for the convenience, she’s here for the peacefulness and is strongly opposed to the wind turbines.

Ruth Doughty, Town of Yates, has been coming to the Town of Yates her whole life. She says that everyone wants to see Lyndonville thrive again but that seventy-six hundred feet wind turbines is not the way to do it.

Roger Barth Jr., Town of Yates, said that his family is deeply vested in the town and can’t believe that it is even considering a wind project. He agrees that the Town does need some help and suggests that people should know how much money is being invested in the project, and jack what APEX is offering by 10-50 times because they can afford it and will end up giving the Town “peanuts”. He added that APEX is not being honest with people and mentioned that their leases prohibit signers from talking about the terms with others. Lastly he said that Medina is booming because of tourism and that the turbines will kill any chance of that in Lyndonville.

Donna Bane, Town of Yates, said that she was a landowner that signed a lease and took it to an attorney to review before she signed and that there was nothing in it stating that she couldn’t talk to people about it.

Richard Hellert, Town of Yates, agreed with Councilman Riggi’s views. He said that in his business he has already seen the effects of the propose project and has lost business because of it. He does not want the MET tower to go up and asked the Board to demand information from APEX.

TOWN BOARD COMMENTS

Councilman Riggi asked that his written statements be entered into the Public Hearing comment section of the minutes.

Supervisor Simon said that at 6:29pm Lighthouse Wind was served with a letter from the Yates Town Board stating that the Bane MET tower was out of compliance with the Town’s Zoning Regulations and that it needed to be removed immediately.

RESOLUTION NO. 72-8/17

RESOLUTION TO CLOSE PUBLIC HEARING ON SPECIAL USE PERMIT FOR A MET TOWER TO BE LOCATED ON A PARCEL OF LAND NORTHEAST OF WEST YATES CENTER ROAD AND ROUTE 269 IN THE TOWN OF YATES

WHEREAS, all persons requesting to be heard both for and against were allowed to speak and letters were received by the Town Board and noted in these minutes, be it

RESOLVED, to close the Public Hearing at 8:05PM.

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

4 Ayes 0 Nays 1 Absent (Whipple)

Motion: Carried

ADJOURNMENT TO DISCUSS ATTORNEY-CLIENT PRIVILEGE MATTERS

Moved by Councilman Bentley, Whereas there is no new business to be brought before the Board, the meeting be adjourned at 8:05PM.
Seconded by Councilman Bradley

4 Ayes 0 Nays 1 Absent (Whipple)

Motion: Carried

Respectfully Submitted,
Michele L. Harling
Yates Town Clerk