

Town of Yates December Board Meeting
8 S. Main St., Lyndonville, NY 14098
December 14, 2017, 7:00PM

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

Excused:	Paula Simon	Larry Wolfe	Christine Bronson
	Bob Verheyen	Betty Wolanyk	Alice Wolanyk
	Steve Royce	Howard Pierce	Georgette Stockman
	Chris Crafts	James Hoffman	Cynthia Hellert
	Anne Smith	Jim Bansbach	Agnes LaPorte
	Roger Barth	Kate Kremer	Harold Suhr
	Taylor Quarles	Paul Lauricella	Michael Basil
	Faith Basil		

Others :

Supervisor Simon called the December Board Meeting to order at 6:59PM.

PLEDGE OF ALLEGIANCE

SUPERVISOR REMARKS

CORRESPONDENCE

Michele Harling read a part of a letter of gratitude sent to the Town Board from Karli Sturtevant, Summer Recreation Supervisor, where she thank all involved for a successful, well participated summer program.

PRIVILEGE OF THE FLOOR ON AGENDA ITEMS ONLY

Roger Barth, Town of Yates, urged the Board to amend the Town's Wind Laws with serious consideration.

James Hoffman, Town of Somerset, asked that the Board consider amending the Wind Laws by outright banning the placement of industrial wind turbines in the Town and added that he thinks that they have sufficient information to do this.

Kate Kremer, Town of Yates, submitted copies of the Application of Cassadaga Wind LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 to Construct a Wind Energy Project for each Board member. She stressed that “The decision highlights the importance of local laws”. She added that with larger wind turbines, the developers are not willing to curtail the wind turbines to protect birds and bats and that it is important to review the local law related to third party certification of the manufacturer design, safety, and testing information relating to all generating and related equipment.

Christine Bronson, Town of Somerset, said “Local Laws, local autonomy, local zoning, local residents; it’s a good time to tighten up our wind laws”.

Taylor Quarles, Lighthouse Wind, questioned Resolution No. 111-12/17 and asked if the proposed changes were similar to those made in the Town of Somerset.

Supervisor Simon said yes, in some respects. He added that they will all be clear over the course of the Public Hearing process.

Paul Lauricella, Town of Yates, questioned Resolution No. 109-12/17 and asked if the Board could share the details of the “Top Secret” Highway Union Contract.

Supervisor Simon replied that it has not been “top secret” and that it covers a four year period, includes a 2-1/2% raise per year, increases the insurance copay for new hires from 10% to 15% and will be public knowledge once the contract is signed.

Paul Lauricella, Town of Yates, said that the contract is not exactly what he would have liked to see but the insurance copay increase is a step in the right direction.

Howard Pierce, Town of Yates, spoke with regard to Resolution No. 111-12/17 by saying that to extend the current setbacks makes the Town Wind Law “Unduly burdensome”. He outlined the steps taken to amend the wind law in 2016 and listed 4 points in the Law that he feels are unduly burdensome: real estate values, health issues, sound issues, and setback distances. He feels that the Town might as well just say no clean energy industrial wind farms in the Town because that is what they are trying to do with this resolution.

Cynthia Hellert, Town of Yates, addressed Resolution No. 111-12/17 and strongly urged the Board to increase their setbacks. She added that she was the only SOS Member to serve on the Ad Hoc Committee formed to amend the Wind Laws in 2016. Lastly she said that setbacks all over the world are being increased and that it is not “Unduly burdensome”.

Agnes LaPorte, Town of Somerset, would like to see a better future for the next generation and feels that a 1-mile setback from the wind turbines is not far enough especially with our flat terrain. She asked that the Board increase the setbacks as much as possible.

Anne Smith, Town of Yates, encouraged the Board to amend the wind laws. She said that they should be as far away from humans as possible. She also addressed the shoreline repair projects

that are under way at the lake. She encouraged the Board to take a ride and check out the contractors work to get the best possible workmanship and pricing.

Taylor Quarles, Lighthouse Wind, asked the Board what the process was to change the Town's Wind Laws.

Supervisor Simon said that the correct process will be followed beginning with the Public Hearing.

Mike Basil, Town of Yates, said that with the size of the turbines available today at 700 feet plus, that a 1-1/2 mile setback was not enough to start with especially since they haven't been tested and the Town residents should not be used as guinea pigs. The Interior Fish and Wildlife recommends a 3-mile setback which he agrees with. He added that the Town of Somerset is also changing their Wind Laws and that as more information becomes available, the Laws should be updated.

Betty Wolanyk, Town of Somerset, applauded the Board by keeping their Wind Local Law updated and encouraged the Board to approve Resolution No. 111-12/17.

Paula Simon, Town of Yates, asked the Board to consider the strictest guidelines possible to protect both humans and wildlife with regard to the Yates Wind Law. She discussed 3 present Laws that were on the books: the Bald and Golden Eagle Law, the Migration Bird Treaty of 1918 and the Endangered Species Act of 1970.

Georgette Stockman, Town of Yates, discussed a conference where wind turbine noise was discussed and a sub group that discussed noise and health. She added that residents count on the Board to protect them and that we will have to live with the results of their decisions.

Richard Fisk, Town of Yates, addressed Resolution No. 111-12/17 and asked the Board why they don't just pass another 1-year moratorium to look into the birds and bats so that they can make the right decision.

RESOLUTION NO. 106-12/17

RESOLUTION TO APPROVE MINUTES

RESOLVED, to approve the minutes of the November 9, 2017 Regular Board Meeting as presented to each Board Member.

Offered by Councilman Riggi, who moved its adoption

Seconded by Councilman Whipple

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 107-12/17

RESOLUTION TO AUTHORIZE WATER SHUT-OFF

WHEREAS, the Rules and Regulations for the Water District of the Town of Yates directs the Water Superintendent to shut-off water upon the request of the Town Board because of failure of payment by the consumer, and

WHEREAS, there are water accounts that are delinquent sixty (60) days after the end of the period, be it

RESOLVED, that the Town of Yates authorizes the Water Superintendent to turn-off water for non-payment of delinquent water accounts.

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

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 108-12/17

RESOLUTION ESTABLISHING UNIT CHARGES FOR LEVELS 1, 2 AND 3 OF WATER DISTRICT 4

WHEREAS, the Town from time to time reviews Water District Unit Charges and makes adjustments as needed, and

WHEREAS, upon review as part of the 2018 budget process, the Town Board determined that a change in the unit charges is desirable, be it

RESOLVED, that the following Unit Charges are hereby established for Water District 4, effective January 1, 2018:

Level 1: \$179.32

Level 2: \$149.43

Level 3: \$ 4.81

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

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 109-12/17

RESOLUTION TO AUTHORIZE THE SUPERVISOR TO SIGN 4 YEAR CONTRACT WITH THE HIGHWAY WORKERS UNION

WHEREAS, the Yates Town Board, Yates Highway Employees, and the SEIU Local 200 United Union Representative have met and discussed the contract and have been forwarded a copy of the new contract for their review, and all parties have agreed upon the content of the new agreement, be it

RESOLVED, that the Supervisor is authorized to sign said contract that will be in effect from January 1, 2018 through December 31, 2021.

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

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 110-12/17

RESOLUTION TO HOLD PUBLIC HEARING REGARDING COMMUNITY DEVELOPMENT BLOCK GRANT FOR REPAIRS TO PUBLIC INFRASTRUCTURE IMPACTED BY LAKE ONTARIO FLOODING

WHEREAS the Town of Yates experienced significant damage to public infrastructure resulting from Lake Ontario Flooding in the spring of 2017, be it

RESOLVED that the Town of Yates will hold a public hearing on Thursday, December 28, 2017, 6pm, regarding its application for a Community Development Block Grant for repairs to public infrastructure impacted by Lake Ontario flooding.

LEGAL NOTICE
Notice of Public Hearing
Town of Yates

Town of Yates will hold a public hearing on Thursday, December 28, 2017, 6pm at the Yates Town Hall for the purpose of hearing public comments on the Town of Yates community development needs, and to discuss the possible submission of one or more Community Development Block Grant (CDBG) applications for the 2017 program year. The CDBG program is administered by the NYS Office of Community Renewal (OCR), and will make available to eligible local governments approximately \$10 million for the 2017 program year for housing, economic development, public facilities, public infrastructure, and planning activities, with the principal purpose of benefitting low/moderate income persons. The hearing will provide further information about the CDBG program and will

allow for citizen participation in the development of any proposed grant applications and/or to provide technical assistance to develop alternate proposals. Comments on the CDBG program and proposed projects will be received at this time. The hearing is being conducted pursuant to Section 570.486, Subpart I of the CFR and in compliance with the requirements of the Housing and Community Development Act of 1974, as amended.

The location of hearing is accessible to persons with disabilities. If special accommodations are needed for persons with disabilities, those with hearing impairments, or those in need of translation from English, those individuals should contact the Yates Town Clerk, Michele Harling, 585-765-9716, BBD@rochester.rr.com, at least one week in advance of the hearing date to allow for necessary arrangements. Written comments may also be submitted to the Yates Town Clerk, Michele Harling, at BBD@rochester.rr.com, until Thursday, December 28, 2017.

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

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 111-12/17

RESOLUTION REGARDING A LOCAL LAW AMENDING THE TOWN OF YATES WIND ENERGY FACILITIES LAW OF 2008, AS AMENDED

WHEREAS the Town of Yates has continued to conduct in-depth research into the impact of industrial-level Wind Energy Conversion Systems since it updated its local law in 2016, and

WHEREAS there is a deeper understanding by the Yates Town Board of the character and values of our community arising from the ongoing work for the Western Orleans Comprehensive Plan and the Lake Waterfront Revitalization Program committees, and

WHEREAS a growing body of research from reputable agencies, organizations, governments and municipalities indicates risks to the public health, safety and welfare as a result of the increasingly recognized deleterious effects of poorly sited industrial wind turbines on human health, tourism, scenic views, property values, prime agricultural land, avian and bat habitats and flyways, noise and light pollution, hydrology, open spaces and cultural and historical resources, be it

RESOLVED by the Town Board of the Town of Yates as follows:

1. Pursuant to the Municipal Home Rule Law the proposed Local Law Amending the Town of Yates Wind Energy Facilities Law of 2008, as Amended, is hereby introduced.
2. The proposed Local Law is hereby referred to the Town Planning Board.

3. Pursuant to General Municipal Law Section 239-m, the proposed Local Law is hereby referred to the County Planning Board.

4. A public hearing on this Local Law shall be held at the Town Hall on January 8, 2018 at 6 p.m. The Town Clerk shall post a notice of the hearing and publish the notice in the official paper.

5. This Resolution shall be effective immediately.

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

Board Discussion:

Supervisor Simon stated that a number of aspects have been preempted over the last 1-1/2 years, namely the Vermont Study, and it's prevalence in considering new setbacks. He added that the US Fish and Wildlife Service recommend 3-mile setbacks from the Great Lakes. Town Boards have been increasingly scrutinizing their Wind Law setbacks and it's time that this Town Board starts their review process with what has been learned over the last 2 years with best intentions.

Councilman Bradley said that it's too soon for a Public Hearing on this matter. He added that it will take time for the Yates Planning Board and Orleans County Planning Board to review the proposals and make recommendations.

Supervisor Simon said that they will be working in conjunction with the Local and County Planning Boards.

Councilman Bradley said that when the WECS Law was revised in the spring of 2016, there was a committee of around 10 people (including special counsel, engineers, and local people) to develop that revision. Two of the four major segments of the revision dealt with setbacks and noise. I'm not in favor of changing these two major pieces on the basis of two Board members saying that they've done research on the internet and that they propose sending these changes to the Planning Boards and a Public Hearing. I feel that another committee should be assembled to propose any potential changes to go to the Planning Boards and a Public Hearing.

Councilman Riggi said that both statistics and charts were analyzed and that much of the work and data that was generated from the original 2016 amendments to the Yates Local Law to current was generated by him. He added that he has analyzed local and international local laws and that he is confident in what he sees and what is being proposed and that many local laws are changing. Lastly he said that one or two people on the Board have been at this with very little help.

3 Ayes 2 Nays (Bradley, Bentley)

Motion: Carried

RESOLUTION NO. 112-12/17

RESOLUTION TO SET YEAREND MEETING

RESOLVED, to set the yearend meeting for December 28, 2017 at 6:00PM.

Offered by Councilman Bradley, who moved its adoption

Seconded by Councilman Bentley

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 113-12/17

RESOLUTION TO PAY BILLS

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

RESOLVED to pay bills as follows:

A-Accounts-	\$ 43,202.90
B-Accounts-	\$ 2,130.71
DA-Accounts-	\$ 11,380.09
DB-Accounts-	\$ 8,265.77
Water 4-	\$ 79,494.75
Water 2-	\$
Youth-	\$
Fire-	\$

TOTAL \$144,474.22

Offered by Councilman Bentley, who moved its adoption

Seconded by Councilman Riggi

5 Ayes 0 Nays

Motion: Carried

PRIVILEGE OF THE FLOOR

Roger Barth, Town of Yates, said that the Yates Lakefront sustained a significant amount of damage due to the recent high water levels and complimented Dan Wolfe, Code Enforcement Officer, for cooperating with the DEC in the permitting process.

Steve Royce, Town of Appleton, said that he will be less than 1 mile from the proposed Lighthouse Wind project area. He visited the Chautauqua County Wind Project and said that the devastation is

“Jaw dropping”. He said that the project is devastating to the forests and has created a mess that will continue for years. He calculated the amount of concrete that would be needed for the Lighthouse Wind Project at 5.2 million pounds which in turn could be a source of air pollution and affect the water run off that will go into our ground water and streams.

Anne Smith, Town of Yates, mentioned the Arkwright Wind Farm and its sparsely populated terrain which is different from our terrain. She said that those turbines are half the size of what’s proposed here and that when she visited the area the roads were covered with mud and concrete. She added that 70 industrial wind turbines will decimate this whole area. She said that APEX touts “100’s of local jobs” but the license plates at Arkwright were from different states; few from NY.

Paul Lauricella, Town of Yates, is against using Pictometry. He thinks that it’s too expensive and that it infringes on people’s privacy. He thinks that the public comments gathered from the surveys sent for the Comprehensive Plan update should be made public. He believes that nobody wants “Big city planning”. He thinks that the Board should be part of the hiring process for a new MEO worker and that the position should be posted. He asked about the County Dog Law and the scope of the audit.

Supervisor Simon responded that the scope has not yet been revealed and that at his time the Auditor is looking at everything. He said that our local zoning touches on dog licenses and that since the Town does not have an actual “Dog Law” that there is nothing to rescind.

Jim Hoffman, Town of Somerset, said that Lighthouse Wind is a “Regional problem” and submitted a handout asking the Board to consider the most recent bulletin posted by SOS relating to the Impact on Property Values. He added that recent advertisements from Lighthouse Wind related to “Economic advantages” do not show wind turbines in the pictures because wind turbines are ugly.

Cynthia Hellert, Town of Yates, asked 3 questions of the Board with regard to the surprise resolution at last month’s meeting: directed to Andrew Meier, Town Attorney; was he consulted regarding the proposition, directed to Mr. Bradley; which members of the Board met to draft the resolution, and was the Supervisor and Councilman Riggi invited to the meeting. She feels that this was an act of collusion and that it’s time to consider a Code of Ethics for the Town Board since they don’t have one.

Andrew Meier said that any such communication would be considered privileged and that he would not discuss it with the public.

Councilman Bradley said that he does not need to answer that question.

Betty Wolanyk, Town of Somerset, asked the Board to consider whether or not having 60, 600’+ tall Industrial Wind Turbines would improve the economy, employment, schools, and populations in the Towns of Somerset and Yates. She did some research in Wyoming County (results submitted to the Board) and analyzed statistical information from the Attica School District. She concluded by saying that the Attica School District is losing 54 students a year and the school taxes have not been significantly reduced.

Mike Basil, Town of Yates, explained that SOS originally formed because the last Town Board would not recognize or listen to the information that their constituents presented to them. At last month's Board Meeting actions were taken that hurt the integrity of the Board without any input from Town residents. He feels that motions should be passed based on facts, not fear of being sued.

Harold Suhr, Town of Yates, thanked all that voted for him in the recent election and stated that he is a very clear and transparent person.

Howard Pierce, Town of Yates, asked all to stand for a round of applause for retiring Councilman, Brad Bentley. He acknowledged the 70 beautiful Christmas trees in the Village of Lyndonville Park, especially those decorated by SOS and APEX. He wished everyone a Merry Christmas and asked that for the next few weeks we put our differences aside as we celebrate the true meaning of Christmas.

TOWN OFFICERS REMARKS

Dan Wolfe, Code Enforcement Officer, no report.

Tricia Laszewski, Town Assessor, no report.

Councilman Bradley, told Councilman Bentley that it was pleasure serving with him for the last 8 years.

Councilman Bentley stated that he didn't intend to serve on the Yates Town Board for so many years. He added that our nation is not in good shape and that more people need to step up, be good citizens, and vote for true representation both morally and spiritually.

Councilman Riggi said that in the last 2 years that he served on the Board with Councilman Bentley he has learned so much from him.

Councilman Whipple said that he has known Councilman Bentley all of his life and has enjoyed serving with him on the Board and wished him luck.

Supervisor Simon presented Councilman Bentley with a plaque for his service to the Town. He added that he learned very early that if Councilman Bentley was quiet it was because he's such a thoughtful and insightful man that never loses his civility or professionalism. He saw him as a mentor and wished him luck in the future.

ADJOURNMENT

Moved by Councilman Bentley, Whereas there is no new business to be brought before the Board, the meeting be adjourned at 8:15PM.

Seconded by Councilman Whipple

5 Ayes 5 Nays

Motion: Carried

Respectfully Submitted,
Michele L. Harling
Yates Town Clerk