

Town of Yates July Regular Board Meeting
8 S. Main St., Lyndonville, NY 14098
July 12, 2018, 7:00PM

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

Excused: Roger Wolfe, Highway Superintendent
Harold Suhr, Councilman

Others :	Dennis Seekins	Alice Wolanyk	Betty Wolanyk
	Dale Aikitas	Bob Verhyne	Bruce T. Williams
	Chris Bronson	Richard Pucher	Judy Esposito
	Steve Esposito	Donn Riggi	Cynthia Hellert
	Agnes LaPorte	Bob LaPorte	Anne Smith
	Jim Bansbach	Matt Zern	Lisa Zern
	Deb Arlington	Tom Arlington	Richard Hellert
	Kathy Evans	Pam Atwater	Neil Groff
	Cosetta Groff	James Hoffman	Steve Royce
	Maryellen Royce	Becky Winters	Susan Dudley
	Peg Schwabel	Donna Bane	Anne Smiley
	Krista Sauerberg	Eric Sauerberg	Ralph E. Smith
	Georgette Stockman	Richard Frank	Lynn Gongwer
	Kate Kremer	Carolyn Yeates	Cindy Yeates
	Tom Cimpi	Kim Bow	Floyd Koerner
	Paul Lauricella	David Robison	Jennie Robison
	Susan Thomas	Neil Habig	Paul Williamson

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

PLEDGE OF ALLEGIANCE

SUPERVISOR REMARKS

Supervisor Simon explained that Privilege of the Floor at the beginning of the meeting is for agenda items only and that there will be a second Privilege of the Floor for any other concerns. He added that we have APEX Clean Energy visitors present representing the Lighthouse Wind Project and if they are willing to answer questions from the audience that the rules of the floor will be a little more lax than usual. He reminded the audience that all dialog should be respectful and civil.

CORRESPONDENCE

No correspondence.

PRIVILEGE OF THE FLOOR ON AGENDA ITEMS ONLY

No public comment.

RESOLUTION NO. 72 -7/18

RESOLUTION TO APPROVE MINUTES OF THE JUNE REGULAR MEETING

RESOLVED, to approve the minutes of the June 14, 2018, regular Board Meeting as presented to each Board Member.

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

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

RESOLUTION NO. 73 -7/18

RESOLUTION TO APPROVE MINUTES OF THE JULY PUBLIC HEARING

RESOLVED, to approve the minutes of the July 9, 2018, regular Public Hearing as presented to each Board Member.

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

3 Ayes 0 Nays 1 Abstain (Simon) 1 Absent (Suhr)

Motion: Carried

RESOLUTION NO. 74-7/18

RESOLUTION TO CLOSE THE PUBLIC HEARING ON TOWN OF YATES LOCAL LAW #5 OF 2018 KNOWN AS A LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW 3-C

RESOLVED, to close the Public Hearing at 7:05PM.

Offered by Councilman Bradley, who moved its adoption

Seconded by Councilman Riggi

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

RESOLUTION NO. 75-7/18

RESOLUTION ADOPTING LOCAL LAW 5 OF 2018

WHEREAS, proposed Local Law No. 5 of the Year 2018, entitled “A Local Law To Override the Tax Levy Limit Established in General Municipal Law 3-c,” was introduced at a duly called meeting of the Town Board of the Town of Yates on the 14th day of June, 2018, with a copy thereof having been duly given to all board members; and

WHEREAS, due notice of a public hearing to be held thereon on the 9th day of July, 2018, was duly published in the Batavia Daily News, the official newspaper of the Town of Yates, on June 28, 2018, and posted as required by law; and

WHEREAS, copies of the proposed local law were mailed to each person entitled to service of same pursuant to New York Town Law 264(2); and

WHEREAS, such public hearing was held on the 9th day of July, 2018, at which time all interested persons were given an opportunity to be heard thereon,

NOW, THEREFORE, BE IT RESOLVED that the Town of Yates hereby adopts Local Law No. 5 of the Year 2018 entitled “A Local Law to Override the Tax Levy Limit Established in General Municipal Law 3-c.”

Offered by Councilman Bradley, who moved its adoption

Seconded by Councilman Riggi

Supervisor Simon said that he is not interested in overriding the tax levy limit but that he needs to keep the option open. He added that this Local Law just gives the Board authority to override, if necessary.

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

RESOLUTION NO. 76-7/18

RESOLUTION TO APPROVE MRB GROUP AS GRANT ADMINISTRATOR AND ENGINEER FOR NEW YORK STATE LAKE ONTARIO FLOOD RELIEF AND RECOVERY GRANT

WHEREAS, the Town of Yates experienced significant flood damage along the Lake Ontario Shoreline due to unforeseen and unavoidable circumstances in the early summer of 2017, and

WHEREAS, the Town of Yates witnessed shoreline reductions and instability in three municipal locations; at the Morrison Road Town Park, and at the ends of Marshall Road and Niagara Orleans County Line, and

WHEREAS, the Town of Yates has been awarded a \$414,500 New York State Lake Ontario Flood Relief and Recovery Program Grant and has been approved for \$30,000 each for Engineering and Grant Administration, be it

RESOLVED, to approve the MRB Group (formerly known as Chatfield Engineers) to assist with the administration and program delivery services of the grant.

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

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

RESOLUTION NO. 77-7/18

RESOLUTION TO AUTHORIZE SUPERVISOR TO SIGN LABELLA PROPOSAL FOR LOCAL GOVERNMENT RECORDS MANAGEMENT IMPROVEMENT FUND (LGRMIF) GRANT

WHEREAS, New York State Archives offers a grant to support, promote and recognize sound archival and records management practices, and

WHEREAS, the Town of Yates has met with a representative from LaBella and New York State Archives to review the Town's record keeping practices and storage capacity and has discussed the necessary steps to improve the same, be it

RESOLVED, to authorize Supervisor Simon to sign the LaBella Proposal for Services to prepare an application for funding for the Town of Yates under the Records Management program administered by New York State Archives.

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

Supervisor Simon said that the Board supports better record keeping for archiving and for the public to access. He added that the grant would be very useful in helping us to do that.

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

RESOLUTION NO. 78-7/18

RESOLUTION TO PAY BILLS

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

RESOLVED to pay bills as follows:

A-Accounts-	\$ 28,519.14
B-Accounts-	\$ 1,262.16
DA-Accounts-	\$ 5,246.90
DB-Accounts-	\$ 19,660.81
Water 4-	\$ 34,526.05
Water 2-	\$ 35,660.29
Fire-	\$

TOTAL	\$124,875.35

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

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

PRIVILEGE OF THE FLOOR

Supervisor Simon asked Neil and Paul, APEX representatives, whether or not they would like to comment and their preference for answering questions; those questions from the Board only, or those from the public and how they would like to approach that.

Paul Williamson introduced himself as the new Project Manager of the Lighthouse Wind Project. He explained that he is familiar with this area and that he hopes to make himself available to those with questions related to the project. He said although he lives out of state, he expects to be in the Barker Office every other week.

Paul Lauricella, Town of Yates, submitted to the Board a letter from the Empire Center to Public Employers calling attention to a recent U.S. Supreme Court decision with regard to payroll processing and withholding practices. He felt that the Town could look at it to possibly save the taxpayers some money.

Steve Royce, Town of Appleton, mentioned that at the Town of Somerset Meeting the night before Mr. Williamson would not respond to his inquiry regarding guaranteed property values

where the wind turbine project will be built. He submitted a list of 50-60 studies and reports that show that wind projects have a significant effect on property values; some peer reviewed, others were not. He also submitted a sample property value guarantee clause that could be incorporated into a local law for Mr. Williamson to consider.

Ralph Smith, Town of Yates, asked the Board how they would separate out the effect on real estate values especially that of lakefront property after they have been devastated by the extremely high water which some attribute to climate change. He also asked if the Board has considered adopting a Code of Ethics with a clear and strong anti-nepotism clause; especially for a spouse or close relative. He said that he read in the paper that the Town of Somerset received a \$15,000 guarantee toward legal fees from Niagara County to fight the Article 10 Process. He wondered if, in light of the intermunicipal agreement between Yates and Somerset to share legal fees, the money comes out ahead of the bills being divided or does it come out of Somerset's share. He asked if this Town has made any effort to raise money with the County of Orleans to fight the Article 10 Process and if so, who is involved.

Supervisor Simon responded that he doesn't know where the \$15,000 from Niagara County will fit in but he will ask the Town of Somerset. He said that the contract with Somerset is a Memorandum of Agreement that is signed and sealed without any language that refers to the \$15,000 coming from Niagara County so he doesn't think that money will enter into our agreement.

Anne Smith, Town of Yates, as Treasurer for Save Ontario Shores wanted to clear up some misstatements made at public meetings and in print by APEX supporters stating that SOS gets funding from big oil and the Koch Brothers. She said that the information is false and that SOS is funded by the very generous people from the Towns of Yates and Somerset. She said that 67 questions were submitted from residents to the DPS website during the Stipulations Phase and that none were answered by APEX. She wondered why a baseline health study was not done and said that Mr. Williamson stated at Somerset's meeting that baseline health studies are not necessary since most people have their own health records.

Richard Pucher, Town of Yates, wanted to confirm that the number of turbines in the project has been reduced to 47 and if that number is correct how many would be in the Town of Yates. He asked that if the project was approved, would there be any plans for expansion once it was operational. He asked if APEX has filed with the County Clerks Offices all of the leases that have been signed and asked how many there were.

Paul Williamson, Lighthouse Wind, explained that they are looking at 3 possible turbine models and named them. He said that the Vestas 150 would perform the best in this area and that if they chose that model, they would need 47 turbines. He didn't know how many would be in the Town of Yates. He said that currently they do not have plans to expand the project. He said that part of the process is to put in an Interconnector Request; one has been submitted for this project area and 47 turbines would maximize the amount of electricity that they would be allowed to generate under that request. He said that they have recorded with the deeds office all of the leases with the exception of work that was done within the last several weeks. He didn't know the total number of signed leases.

Susan Dudley, Town of Yates, asked why specifically the Vestas 150 was APEX's first choice and wondered if any of the optional features would be included. She said that in an email to Supervisors Simon and Engert Mr. Williamson said that 90% of communities in New York are supportive of wind energy and a considerable number of the Supervisor's constituents support the project. She asked where the numbers came from and if APEX even knew the population of the Towns to be able to determine if they have a "considerable number". Lastly she asked if any of the 47 turbines will be in Yates. She said if not, the distribution of funds will be more favorable for Somerset and asked if this is a selling tool to get people in Somerset to sign leases.

Paul Williamson, Lighthouse Wind, said that someone read the 90% number from a letter and that it was the result of a poll/survey that was done and that the 90% figure represents the number of respondents that answered and were in favor of wind and that it wasn't a study done by APEX. He said that he doesn't have the documented number of people that support the project but they have 100 leases with landowners and that this represents 100 people or more including husbands, wives and families. He said that supporters have come to them because they want to see economic development in this area. He said the Vestas 150 would perform most efficiently and appears to be best suited for this project with low operational noise. He wasn't sure about the optional features but said that he could get that information for her if that particular model was chosen.

Krista Sauerberg, Town of Yates, corrected a prior statement made by Mr. Williamson where he said that leases were filed, she asked if he meant to say memorandum of leases. She asked if the leases remain confidential and if so, why they are not made public, especially if APEX is here to protect the Town and its residents and the way a lease signer can get the best deal is through collective negotiations. She said that she represents a person in the Town of Yates that was told by APEX not to speak about the lease publicly and was not advised about their right to counsel and that they should not negotiate. She wondered of the 100 stated agreements, how many are with the same landowner. She asked if APEX knew how many people those 100 landowners represented of the total population of the two Towns. She asked if APEX has ever decommissioned a windmill and if so, what is the cost and what will be the amount of the bond to cover the cost. She asked for a current contract to review.

Neil Habig, Lighthouse Wind, said that not only do interested parties have a right to counsel, but that APEX offers to pay for an attorney of their choice to review the lease agreement.

Paul Williamson, Lighthouse Wind, explained that it's general practice for parties when they're entering into financial contracts and negotiations to keep negotiations confidential. He said that there are some models where the company has entered into Community Development Arrangements. In this case they worked one on one with private land owners and selected to negotiate individually and come to terms with them. He said that they have leases that cover several pieces of land, some of the land is owned under more than one name, and he doesn't know if there are 100 different people that have signed leases but they have that information and can make it available. He admitted he did not know the number of people in the two Towns. He said that during the time that he has worked for the company he has not decommissioned a wind turbine but it has been done. He said that APEX is required to post a bond in the amount

necessary per the statute requirements to cover and it is provided in the Decommissioning Plan and Study with all financials approved. He said that he would have to check with their legal department to see if they could provide a current contract. All of the 25 operating wind farms in NYS are covered by a Bond and Decommissioning Plan. The cost to decommission those wind farms is set by an independent third party engineer and every three years the plan is reviewed.

Kathy Evans, Town of Yates, said that Save Ontario Shores has over 600 supporters; the majority of which live in the area. She asked specifically, how many local people support the Lighthouse Wind Project and of those how many stand to gain financially or have family that will. She asked if it's fair that a small percentage have the right to determine the future of the Town just because they own more acres of land. She feels that the majority should decide what type of industrial projects would benefit the Town. She said that if the letters submitted to the DPS were read, APEX would know the quantity and quality that stand against this project.

Peg Schwabel, Town of Somerset, explained that in December of 2013 APEX entered into a Power Purchase Agreement with the State of Maine for power for the Down East Wind Project. She said that New York has also entered into PPA's with Alle-Cat Wind and Barron Wind yet neither are operational or have completed the application process. She asked if Mr. Williamson could name any project that has been denied after being issued a PPA. She asked if APEX will seek or already has a PPA for the Lighthouse Wind Project. She asked how any Town can get a fair hearing from the State if a project has already received a PPA before being approved by the Siting Board. Lastly she said a problem with the Siting Board is if a developer such as APEX has an "insider contact" with the Siting Board how will the Town get a fair hearing.

Neil Habig, Lighthouse Wind, said that as an active applicant, they are not allowed to speak with Siting Board members and that he has not been in any meetings with Siting Board members.

Paul Williamson, Lighthouse Wind, said that there is local representation on the Siting Board. He explained the PPA process that was used in the Down East Wind Project in Maine. He said that for this project they would look to bid into the opportunity for renewable energy credit sales from NYSERTA and look at the opportunity to sell to the local utilities and to outside markets. He said that in order to have a project move forward they need a place to sell the electricity; they need a place to plug it in.

Pam Atwater, Town of Somerset, asked Mr. Williamson if he knew who made up the POWER Coalition. She explained that the Coalition represents 12 groups with concerns regarding environmental, birding, tourism, business, hunting and fishing. She said that these groups have specific and vast knowledge because of studies that have been done over the years. She said she heard APEX's expert biologist, Dave Phillips, say that APEX doesn't know at what height birds fly, far more birds fly at night, there are spikes on certain days and hours, birds can see turbines and fly around them and that turbines have little impact on birds. She said when questioned about the 2015 letter from USFWS which recommended a 3 mile setback from the Great Lakes shoreline he stated that it was out dated information from 2009. When it was brought to his attention that it was current from 2015, included on the DPS site and addressed to him, he seemed puzzled. She has no confidence in the information that their experts are sharing.

Paul Williamson, Lighthouse Wind, said that he had heard about the POWER Coalition very recently and that he believes that it's a number of groups that have come together. He said that he is fully aware of their concerns but that he believes that there is a differing of opinions within the community. He said that he cannot vouch for what Dave Phillips did or did not say but that he is very good at what he does and that he is a thorough scientist. They have done surveys on avian flight passage rates and other wildlife surveys which will be part of their permit application and will be put forward to the federal and state permitting agencies that will make the determination of whether the project that has been designed with that data supplied is responsible.

Maryellen Royce, Town of Appleton, said that she sees bald eagles flying along the lakeshore in her neighborhood at least three times a week the whole year round. She said that she knows that there is at least one nesting pair along the Somerset Power Plant. She said it was mentioned by Mr. Williamson that certain curtailment measures might be taken during migratory periods to protect migrating species of birds. She asked what steps would be taken to protect the year round birds against blade collisions. She said that the migrating birds they see are 2 miles from their nest so 1 mile won't help them much. She said the US Fish and Wildlife report from 2015 recommended a 3 mile setback from the water which would serve the birds in this area. She said that at the hearing for the Cassadaga Wind Project the NYDEC recommended that during the period of July 1st – October 1st when air temperatures are above 50 degrees, and the wind speeds at hub height are below 15mph and during the hours of ½ hour before sunset and ½ hour after sunrise that all blade motion be curtailed in order to mitigate the killing of bird and bat species. She asked if Lighthouse Wind would be willing to mitigate similar steps.

Paul Williamson, Lighthouse Wind, said that there is a requirement for recreation that they all follow that wind turbines should have a 1-mile setback from an eagles nest and they have and will make sure that they will identify any potential eagle's nests before they design the project and will apply the 1-mile setback. He said that historically there have not been a large number of collisions with bald eagles and wind turbines. He said they consult with US Fish and Wildlife and they will design an operations protocol to satisfy their requirements. He said that they expect to curtail the project for bats similar to the timeframes Mrs. Royce mentioned. He said that usually they use 5 meters per second for bats rather than 15 miles per hour, as per the permit application and consultations with US Fish and Wildlife.

Anne Smiley, Town of Yates, commented on a statement by Paul Williamson where he said that they work with farming communities that are interested. She asked who approached who, and who were those that were interested since clearly, most of the community isn't.

Paul Williamson, Lighthouse Wind, said that he can't tell the specifics of how this all unfolded but he believes that that prior to APEX coming to this area, other companies explored here. He said at that time there were Town Officials that welcomed Dan Fitzgerald into the community to explore wind power. He said that currently they have been working with land owners who have come to an agreement to sign leases.

Matt Zern, Town of Yates, said that last night it was so dark that he could see almost every star and that it was so quiet that he could hear his heartbeat and that he's worried about losing those

things in this rural area. He asked where they were going since they are so massive; bigger than the biggest building in downtown Buffalo and so industrial. He said that he understood that they are placed in clusters and asked how close they are to a site plan and would they be building a scale model. He asked how many clusters would be needed.

Paul Williamson, Lighthouse Wind, said that they need to complete all of their negotiations for land this month then move in to a full design phase and make their commitments on turbine models which should take them through the month of August so about two months from now they should be able to provide a full design plan to provide to the community with a photo simulation which are full panoramic photos from different parts of the community. They could consider a scale model but don't typically do that. He said that in terms of clustering, they need to be spaced far enough apart so that they don't impact each other but close enough so that they don't have to run extreme lengths of lines. They need to be close enough to be efficient. He said that they would do their best to maximize the space they have as allowable.

Donn Riggi, Town of Yates, commented on a poll that was mentioned in a letter from APEX which said that nearly 90% of people polled statewide support wind energy. She said that 5 to 10 years ago she would have responded positively to that poll as well but after doing research she would not have bought her home here 4 years ago with a wind farm being proposed. She said that the people that responded to the poll were ignorant of the facts of wind farms such as sound, shadow flicker, infrasound and red blinking lights at night, the size and scale of industrial turbines, the harm to local wildlife and environment, stray voltage, damage to aquifers, health problems, how they actually work, tourism, disruption of communication systems and radar, the actual capacity of wind turbines that averages 24% in New York but that can be as low as 13% in past years, the loss of home rule and the loss of property values. She said that it's easy to support something you don't know much about. She said she cares about the environment but this is not the answer when it is poorly sited.

Betty Wolanyk, Town of Somerset, said there has been "rigorous interaction" of those opposed to the project. She is disappointed that APEX has not responded to requests for information, PSS comments that were ignored and not addressed, and her own 7 letters in response to stipulations where she asked for acknowledgement of receipt, all of which were ignored. She said that at a recent meeting APEX representatives said that not many birds and bats are killed by industrial wind turbines. She said that on page 90 of the Lighthouse Wind Stipulations it states that APEX anticipates applying for a US Fish and Wildlife Incidental Take Permit because of these incidental kills. She read and submitted a poem written in January of 2013 by a "Control Specialist" employee of a wind turbine company whose job it is to pick up and dispose of dead birds, which is a full-time job.

Paul Williamson, Lighthouse Wind, said that 1,400 comments were responded to from the PSS. He said that in the Stipulations process there is not a direct response to every comment. He said in Stipulations, after receiving and reviewing comments and suggestions, all parties decide on whether or not they can come to an agreement on what is going to be included in the permit application, the result of that process being those groups choosing or choosing not to sign on to those agreements. Part of that process is taking those comments and deciding what they can or cannot agree to and leaving that same option open to the other parties involved. He said that he

didn't believe that answering her letters was a part of the process but he was not on board at that time.

Dennis Seekins, Town of Yates, asked why none of the farmers and landowners attended these meetings. He said that maybe they don't deserve to get the turbines. He said that there is definitely a need for renewable resources and that global warming is a fact. He anticipates an inundation of people moving in from the big coastal cities when they are flooded out. He said that we are experiencing recent flooding situations right now in different areas because of the rising sea levels and we are headed toward catastrophe. He questioned why this is never brought up at meetings and asked how responsible we are.

James Hoffman, Town of Somerset, said that he was offered a non-negotiable lease from APEX without any assistance from an attorney to analyze the 30 plus page document. He said that it was time to talk about energy storage. One line of thought is that because they are intermittent, to make them viable you need storage, which is another ball game that involves a lot of nasty stuff like lithium ion, which is highly flammable. He asked if they are planning on storage for this project or are they involved with storage in another project. He said we never address the physical impact on the community during the construction phase. He asked how it will be accomplished and what will it do to our infrastructure. He asked what kind of waivers to our local laws they would need to make the project happen. He believes that the reason Mr. Goodwin has not visited the project area and spoken with the local authorities is because the representatives from APEX that attend our meetings are not portraying to their home offices the level of concern and negativism from residents and some of the APEX constituents are minimizing the evidence that supports this like our surveys, election results, rallies and meeting attendance, written ordinances, organization formation, and DPS comments.

Paul Williamson, Lighthouse Wind, said that additional storage is not allowed as part of the design for this project. APEX has just started new services to develop and sell storage packages to parties around the country but they are not planning that for this project. If they did, they would have to apply separately which would be a separate standalone project. He said that construction is a huge part of the project and that part of the entire process is that an entire engineer table works on a transportation plan to bring in all of the components in a very uniform sort of way so that the project can come together efficiently. They work with local roads and communities to make sure that they have the least amount of impact on local traffic. Some will be done off hours and typically the development company will establish a Road Use Agreement with the local communities which will say in general terms that after they use the roads, they will restore them to existing or better condition than they originally were. He said that it is correct that they will be requesting waivers to the local laws.

Neil Habig, Lighthouse Wind, said that the transportation plan is one of the elements of the Article 10 Application which will be subject to review from the Siting Board.

Georgette Stockman, Town of Yates, said that the idea of transportation during off hours won't work because sometimes the farmers move equipment during the summer in the middle of the night and in the fall they have harvest with trucks all over the place. In winter APEX will be dealing with icy roads and very heavy equipment so there is not a good time to bring that type of

equipment in. We also have Amish and Mennonite buggies and bikers in the area. A major concern of hers was the possibility of fire, especially in this residential area. She went online and found that hydraulic oil and transformer oil are used in the turbines, that larger turbines result in more frequent fires and that the higher winds from taller turbines result in a higher potential for fire. She said that in her area of Town they get 50-60 mph gusts of wind. She questioned whether or not there could be health issues associated with the black smoke from a turbine fire.

Paul Williamson, Lighthouse Wind, said that there are occasionally fires but that they are very rare. He said that when they do happen, the safest thing to do is shut down the turbine, have the turbine housing sealed up and let it burn out. All emergency response input agrees that this is the most effective way to handle a fire and when using this measure the fire usually burns for a short period of time and goes out. After it goes out crews go up and take care of the mechanical work that needs to be done to restore the turbine as necessary. He said that the smoke coming from the small amount of oil and hydraulic fluid will not create a health hazard in and of itself. He said that it's in a remote area that is far enough away from homes with distance in between and will not have an effect.

Floyd Koerner, Town of Somerset, said that in 2013 APEX representatives met with Supervisor Engert expressing interest in developing a wind project. He said that with the approval of the Supervisor and the Town Board APEX was soon signing leases with landowners and he (Koerner) is one of them. He said that in their discussions at support meetings they express concerns that landowners are not more proactive and that this may be because they assume that Article 10 will take care of the issue but that the supporters should be more vocal out in the community. APEX contacted him to do a bat study, a noise study, a migratory study, and seasonal wetlands surveys on his property. He said that APEX is very proactive in doing these studies and to improve any conditions that a leaseholder would like to see. He said that when he signed a lease he was advised to his right to counsel and it was understood that when the turbine is placed, the landowner has a say in the placement so both parties are happy.

Kate Kremer, Town of Yates, said that after 5 years they are glad to have someone that will talk to them. She said she wanted to clarify a statement made by Mr. Williamson that APEX is aware of studies that have happened in other locations where pre and post-construction birding surveys have shown that there is not a significant difference between those two. She asked if he was saying that the quantity of birds will have no relationship to the mortality of birds once and if the project moves forward. She asked if he is suggesting that there is no location where numbers of bird passage rates would indicate that it's not a proper place to put a wind turbine. She asked if he would be willing to share the links to the studies that have already been done. She asked if he was familiar with a migratory stopover region. Lastly she said that members of SOS have first-hand knowledge that there are environmental groups in the region that are claiming that SOS is funded by oil and gas interests including the Koch Brothers. She said that these claims are from organizations that are working to support the Lighthouse Wind Project. She said that this lie has been promulgated and ongoing by 3 groups in particular; the Rochester Mother's Out Front, the Atlantic Chapter of the Sierra Club and the Sierra Club Niagara Group. She asked if this lie is still being spread by APEX and its representatives and said that they need to stop it if it is still being repeated.

Paul Williamson, Lighthouse Wind, said that pre-construction surveys are the Migration Radar surveys and have been done for a number of projects around the country. Two companies in particular that do research on the studies have reviewed the data of migratory birds coming from an area with wind turbines installed and the mortality rate in the area and there is no correlation after looking at multiple years of data and multiple projects around the US between avian passage rates and mortality rates. The results are random. He clarified that he was referring to the quantity and location of passage rates and no direct correlation with mortality. He said that there have been some areas in the country that have demonstrated that with windmill features in place that there has been a higher risk of collision with birds with avian traffic and wind turbines but in this lakeshore area compared to other lakeshore land areas and other projects along the Atlantic Seaboard it is demonstrated that shoreline birds and migration do not represent a higher risk for collision. He said that curtailing is typically done for bats, not birds.

Neil Habig, Lighthouse Wind, said that with regard to SOS funding, they have heard the same rumors. He said that APEX respects the right of SOS to organize and collect funds from whomever they choose and APEX doesn't know who that is. He added that he doesn't even know if that comment was made by the consultant. He said he is not in control of those groups and does not have the same view. He said that he does not personally believe that the Koch Brothers are funding SOS, but even if they were, respects their right to do so.

Donna Bane, Town of Yates, said that after several conversations between her and her husband, family, and neighbors, they decided to look into and pursue wind energy and see what knowledge they could gain. She said that she received a letter from APEX explaining that they were interested in the area and that she could get more information from them if she was interested, which she was. She is for the wind project, yes, she is a landowner, and yes, she would benefit from the project but she is also considering the benefit to the community. She has traveled to Sheldon, whose Town taxpayers have not paid a Town tax since the wind project was operational. She does not expect the Town Board to alleviate the Town tax but she does think that they would be able to provide some tax relief. She believes that the farmers are not here to represent themselves because they work from dawn to dusk and cannot take time off for meetings. She said that SOS has repeatedly said that the Town of Yates does not want this project insinuating "the whole Town" which is not true. She said that there are people in the Town that do want the project. SOS should say that "some" of the people in the Town don't want the project.

Richard Hellert, Town of Yates, reported that one of the local APEX leaseholders had to sell their home. As a result of the sale, he was told that transmission lines were going to pass through the property. He has a copy of the general lease and there is no mention of lines going through the property. He asked if this means that a turbine could be placed on the property with a new owner even though he will not have any say over what happens. He asked what happens to the next owner; will he have to accept a turbine and is this fair to the new owner. He said that there is potential for new buyers to say that they don't want to move here with a possible lease agreement in place and that it would take a selective buyer that is willing.

Paul Williamson, Lighthouse Wind, said that typically leases are transferrable when the property is sold. He said that the new owner would be aware that there was a lease in place and would be subject to all of the terms of the lease, including the installation plan of equipment as mentioned earlier. He said that they are entering into the sale of the property with full knowledge of the project and that it is fair. He said there will be buyers out there that want to buy property with a lease in place because it adds value to the property.

Floyd Koerner, Town of Somerset, said that it's no different than having an easement on a property. It has to be disclosed to the lending agency, that there are easements on the deed.

Debbie Arlington, Town of Yates, said that they bought a cottage on the lake 11 years ago as an investment to provide a tourism retreat and the people that they have met and that have returned year after year have been amazing. They love the peace and tranquility that the area provides like the birds and swans, clear night skies, or the spiritual silence. She said the tourism from these visits helps the community because as lessors, they encourage their guests to check out the rest of the Town. She is worried, especially during the construction phase, that their guests and their business investment will be impacted. She said that at a prior meeting early on where APEX was available to answer questions she asked why the turbines were so tall, and were there any already placed in the Country that were that tall, at that time over 600 feet. She asked Mr. Williamson to give a brief summary of the project status and what the height would be with the blades included. She asked if the total number of turbines was reduced from the original projection of 70.

Paul Williamson, Lighthouse Wind, explained that they are still exploring different models and that they have not committed to a model yet. He believes that the model that would appear to perform the best in this area is the Vestas 150 Model. He said that this particular model would have a 105 meter hub height so the box that you see on top of the tower is at 105 meters, the blade length would be 75 meters, at 180 meters tall overall to the tip, which equates to 590 feet. He said that there are taller wind turbines than this in the country. He believes that the comment made at an earlier meeting was meant to explain that they would be using the largest and best technology available at the time, which is somewhat true here. They are looking at the best technology with the most efficient turbines that would work in this area. He said that the capacity factor would be cruising at about 37% which is a very robust capacity factor. He said that as the evolution of wind turbine technology improves, you can get more generation out of turbines because the generators are bigger and because they can generate more electricity more efficiently out of the existing package. He said that back when Dan Fitzgerald was here the average turbine size was 2-2.5 megawatts and that now they're 4 megawatt turbines which reduces the number that are needed in a project.

Kathy Evans, Town of Yates, asked Mr. Williamson if he would be going on the DPS website to read everything that was posted from the beginning so that he would understand resident's objections and concerns.

Paul Williamson, Lighthouse Wind, said that he started reading through but has not finished through it all yet. He said that he is aware of the nature of the concerns. He also said that he understands that there are those who think that this project would make a dramatic change to the

local community. He explained that some have said that they are for renewable energy but that this project is sited improperly. He said whether or not you are in favor of this project a problem around the country is that nobody wants any infrastructure in their backyard; like high tension power lines, a new highway, a new gas line in the area, or a new cell phone tower. He suspects that any new project would get resistance but people need the services these things provide. He said that there is a social, environmental, and local economic need for these projects and there is local interest for this particular project. He said there is a differing of opinions, locally, and that he understands and recognizes the opinions of those opposed and says that they will work with the community to come up with a project that is responsible, that is their goal, and that rewards the community for having the project here.

Mike Basil, Town of Yates, asked what happens when his neighbor puts up a turbine that affects him and he sues his neighbor because the turbine is a public nuisance. He wondered if APEX provides legal assistance to the leaseholder when they are sued by a neighbor. He said that his point is that he funds his own lawsuits, APEX funds the leaseholder's lawsuits. He also addressed a prior claim by Mr. Williamson that there is a social, economic and financial need for the project. He asked why when we are at 100% of clean renewable energy and when the Town Board asked the DPS to have APEX prove need during the PSS portion and need was never proven, how this project can go to the application phase. He said that we are under siege by APEX and that our Town budgets are going toward legal fees. He said there are people all over that are contributing their time, efforts and money when they have better things to be doing with their lives and yet APEX steamrolls ahead and has not yet proven need. He would like the Town Board to ask the DPS if this project can move forward without need being proven. He mentioned the King Fisher Project and all of the issues that occurred there when they went online. He said that 37 miles across the lake in Ontario wind development has been curtailed for 3 years based on issues they had. He asked that those issues be explained and asked what the company would do to mitigate those issues here. He asked APEX to name any place in the United States where there are over 600 foot turbines. He said that the tallest turbines he knows of based on his research are in Germany and are over 1,000 feet tall. He said that his point is, because there have been issues, there should be independent testing before new turbines go up. He said that we rely on the manufacturer's data for setbacks which is like relying on a company telling us how great their product is without any independent testing. Lastly he said that the DEC says we cannot pour concrete in or near the lake and that this area is one of the greatest freshwater fishing areas in the world, but APEX wants to put 47 underground buildings in the watershed which runs to the lake so how do we protect our underground water, streams, tributaries and lakes from being ruined.

Paul Williamson, Lighthouse Wind, said that he has no idea what would happen in the event of a neighbor suing a neighbor. He said that there are terms in the contract that say that both parties will protect each other against liability claims as related to the project. Mr. Williamson said that he was not familiar with the details of the King Fisher issues. He explained that they are structured regionally and that APEX has a number of projects and that the developers of these projects know very little about each other's projects. He said that there was an interesting website that shows wind turbine locations all over the United States and all over the world and the size and scope. He said that the Hancock Wind Project in Maine is one of the taller wind

power projects in the country. He said that there are some sites where there are extreme towers that use a concrete base with a steel turbine on top that exceed 600 feet.

Supervisor Simon said that the easy answer in terms of the developer proving economic need would be that it's a stipulation; it's one of the exhibits and so it will be in the application to some degree however he thinks that its pulling at straws and its arguing on a level that would not satisfy someone locally and proving that it will support any positive change to our environment.

Agnes LaPorte, Town of Somerset, mentioned that it was said that the turbines have to be placed far enough apart because of the turbulence that they make. She said that the word "turbulence" is a scary word that means vibration which is probably where the infrasound comes from that will make many people sick. She said that on her farm she is not allowed to burn tires because the smoke would not be healthy to their neighbors. She said if one of the turbines catches on fire, the oil that burns until the fire is out and the smoke that it creates would be very bad. She said part of the lease holders contract is that they will "uplift" the company and speak kindly of APEX, never saying anything bad about the company. She said the leaseholders are financially gaining from the project while the rest of the Town is financially contributing. She said that Mr. Fitzgerald said in an earlier statement that they would not be building where they were not wanted. She said that at last night's Somerset meeting Mr. Williamson said that if APEX cannot work with the local governments to come up with an agreement, then that they will shove Article 10 override on us.

Lynn Gongwer, Town of Yates, asked about the economic benefit to the community, how many local people will be working on the construction of the wind turbines, how many local people will be employed by APEX to maintain them and will those people live here. She wondered if there were problems with the turbines will there be local employees of the company that can fix them. She asked what the economic benefit was if the company doesn't hire local people.

Paul Williamson, Lighthouse Wind, said that when the project is built they will work with a general contractor who will be responsible for hiring all of the people to work on the project and bring together all of the subcontractors necessary to work on the project. In some cases some of the subcontractors could be local people, in some cases they will be specialized skilled people with specialized equipment that will come in from outside of the area. During construction they expect the general contractor to employ somewhere between 200-300 people. After construction and during operations the project will employ between 8-13 full-time people. Those will be wind turbine technicians. There will be a maintenance and operations building within the project area that will house the equipment. Typically those hired as wind turbine technicians choose to live in or nearby the communities that they are working in. He said that there are 2 significant opportunities for the community to benefit; one being the general tax base that is assessed on the value of the project area based on all of the tax jurisdictions in the area and in addition to that they would seek to come to a Community Benefits Agreement which could be used for economic development, infrastructure investment or tax reduction.

David Robison, Town of Yates, wanted to express his appreciation to all who attended and were cordial and allowed APEX to share the information that they had. He believes that there are a lot of misconceptions out there and that the more open communication they had with an open mind

that maybe they can clear some of these up. He said that there were quite a few people that didn't express themselves kindly and that they should think about that for the next meeting because it's a good start to try to grow together.

Christine Bronson, Town of Somerset, submitted a statement where she explained what transpired at the Somerset Town Board Meeting the night before. Specifically she wanted to bring to the public's attention that Mr. Williamson stated that out of 60 projects under development, APEX currently manages 8. She says that they sell off projects before they are complete or shortly thereafter so who will be on the other end when there are problems with sleepless nights, noise, shadow flicker, migraines and flashing strobes. She also mentioned that an Appleton farmer asked Mr. Williamson about how much taxpayer-funded government incentives are going to Lighthouse Wind and he did not get an answer. She said that over the past 35 years wind energy has received \$30 billion in federal subsidies and grants. She said that APEX is here for the profit and for lease holders that feel it is their right to industrialize our Towns for their own financial gain, all at taxpayer's expense.

TOWN OFFICERS REMARKS

Dan Wolfe, Code Enforcement Officer said that this is his busy season and that he has been busy issuing building permits.

Councilman Riggi submitted his comment in writing as follows:

A note of thanks to Mr. Williamson and cadre for clearly describing your 8 tenet strategy for destroying the towns of Yates and Somerset.

You have indicated that:

1. There is no impact on NFARS
2. Turbines are good for the environment
3. Turbines are good for infrastructure
4. Turbines are good for the economy
5. Turbines are safe for birds
6. There is no need for Yates to have laws governing wind turbines
7. There is no need for a baseline health study
8. There is no need for a PILOT

Let's take these one at a time:

1. **There is no impact on NFARS:** Clearly, you have no understanding of the economic history of Western New York. Unlike Virginia, where you live, Western New York is an area with many challenges. High taxes, little Economic and Industrial Development combined with a complete lack of interest by Albany make this a hard-scrabble place to live and thrive. Yet, we do. That's because we are, as a people, extremely protective of those unique aspects of life in Western New York. Unique aspects such as the Niagara Falls Air Reserve Station (NFARS) base in Niagara Falls. You say there will be no impact. Frankly Mr. Williamson, your very presence in this area is a threat to NFARS.

This base employs 3,500 breadwinners with good paying jobs in an area where good paying jobs, actually any jobs, are difficult to come by. NFARS has been slated for closure twice by the Base Realignment and Closure Commission (BRACC) and we have learned the hard way that any small reason to put a negative spin on a base may cause its closure. So, your impact on NFARS is a clear and present danger to all of Western New York. This is one of the reasons that Orleans, Niagara and Erie counties have opposed you.

2. **Turbines are good for the environment:** Really!?! How are turbines good for the environment? If allowed, you will blast massive holes into bedrock, potentially impacting aquifers. Pour tons of rebar concrete into each hole. You do this, even as residents are prohibited by law from pouring concrete in the water of Lake Ontario due to leaching. Your holes will also leach lime into Lake Ontario, negatively impacting pH of the water and as a result the lake ecosystem. You will also segment and destroy wildlife habitat. Good for the environment? I think not.
3. **Turbines are good for the infrastructure:** This Mr. Williamson is downright laughable. You are not coming here to improve the infrastructure. You are coming here to stick steel and concrete into the ground and then REPAIR infrastructure. Turbines are not good for infrastructure. Nothing can change that, regardless of how you twist the words.
4. **Turbines are good for the economy:** This is a flat out lie. People who can get out, will get out. Driving property values down. Business will not come where the people aren't and your tiresome statements of 10-15 good paying permanent jobs rings untrue today as it has since you first stated it, oh so many years ago.
5. **Turbines are safe for birds:** I'm still laughing about this one. If one bird is killed by a turbine, then turbines are not safe for birds. Certainly, you can state statistics about cars and cats killing more birds than turbines. But the fact remains, birds will be killed, not only during migration season, but all year round. Whenever I was trying to get out of trouble as a youngster, my Father used to say "figures lie and liars figure" as he was meting out punishment. Just admit that Turbines are not safe for birds already! Stop lying.
6. **There is no need for Yates to have laws governing wind turbines:** This is basically what you are saying when you indicate that you will "request waivers" of Town laws. That's a nice way to say, that you are going to ask the state to eviscerate your Town laws as "unreasonably burdensome". And your reasoning is ludicrous! You state that we passed these laws to stop the project. Nothing could be further from the truth. We crafted the law using input from your industry. We studied and assessed the changes in technology as well as health, real estate, wildlife and environmental impacts via independent, peer-reviewed studies on the subject in order to determine how we wanted to write the law. Frankly, if we wanted to stop the project in its tracks we could have just banned turbines altogether. So we clearly indicated, via our law, where you could place

turbines. If you can't place turbines in compliance to the Town of Yates wind law, you have chosen the wrong location for your project. But instead admitting your mistake like any normal business, you've decided that you know better than the vast majority of the people of Yates. So, you're going to travel to Albany and ask the Governor to shove this project down our throats. How sweet!! You should educate yourself on recent precedents and decisions by the Siting Board reinforcing local laws as sacrosanct. The vast majority of our constituency is of the same mind regarding the sanctity of our town laws and that's not going to change.

7. **There is no need for a baseline health study**: Your statements here are pure pabulum. You clearly do not understand the difference between the terms "data" and "study". We have plenty of medical data, but without an organized assessment of that medical data there are no conclusions to be drawn. Your statements clearly indicate that you do not understand simple and robust scientific methods. You should be willing to pay for the organized assessment of medical data in order to determine the baseline health of the community you are trying to destroy. I am amazed that, as a firm based in science, you do not understand scientific assessment methodologies. Another reason we don't trust that you know what you're doing.
8. **There is no need for a PILOT**: The long-held rule of thumb in the State of New York regarding these types of projects is; "No PILOT, no project". Assessed values for this project may very well rest in the range of \$220,000,000 Million Dollars (Harrisburg, NY, Watertown Daily Times April 2015). You have proven yourselves to date, a firm that likes to get off on the cheap (a few hundred dollars here and there to attempt to curry favor). There will be no "cheap" in this deal. 47 Turbines will tip the scales at \$200,000,000 in assessed value. Apply local tax rates and the full taxation will be in the range of \$9,400,000 annually. As compared to a PILOT payment of \$1,500,000 annually, which nets the Town of Yates \$40,000 per year!! A constituent stated last month that he hoped we would negotiate the best deal for the town. The best deal for the Town of Yates is "no negotiation". If, by some massive miscarriage of justice, you are allowed to destroy this community, it will cost you dearly.

I understand that my comments this evening are fairly blunt and may have ruffled your feathers. Frankly, I don't care. The Town of Yates has consistently fought alongside the Town of Somerset against this travesty. Its time for you to begin to feel the rage that fully 65% of our constituency has felt since December of 2014.

You need to get out of Town...

By the way, why isn't your CEO sitting here with you tonight?

Paul Williamson, Lighthouse Wind, thanked Mr. Riggi for his comments and said that he respects his opinions and asked everyone to respect each other since some of the things mentioned were never said by him personally. He asked that people be careful when quoting what other people may or may not have said and he will do the same.

Supervisor Simon said that he sincerely appreciates the willingness of Mr. Williamson and Mr. Habig to be at the meeting and to interact with the audience. He said that it was a very unique opportunity since the last interaction they had was the panel debate held a long time ago where they were able to speak frankly. He said that he looked back at his notes in terms of his interaction with the company and back in February the Board sent a letter having just passed several resolutions by the Town to the CEO, Mr. Goodwin and never got a response. The letter highlighted that the Town had updated its laws and it asked that he reconsider the prudence of the proposal given a number of factors, which were highlighted in the resolution as passed by the Board. The resolution in opposition to the project was passed 5, 0. He said that in the 2 election cycles that he has been involved in; the politics of this, that opposition among the Board Members has become more solid and it's the same in Somerset or 10, 0 and that this reflects the will of the people. There is no voice on either Board that says to move forward so he wonders how this is being approached by the CEO and he can only wonder because he is not getting any response from the CEO. He said that with all due respect to the responses the Board received from Neil Habig and Taylor Quarles and now with Paul Williamson, it is not enough. The Board is not convinced that he understands the gravity of the way the Town majority is viewing the project as evidenced through election cycles, resolutions and local laws. Out of respect, how can the CEO not respond. He said that in NYS no wind project has been built without Town Board approval pre or post Article 10 because all but Cassadaga were done before Article 10. He said that one would hope that the respect of the will of the people as witnessed by their elections would call the company to reconsider the project. He mentioned the Town of Hopkinton case where after the company polled, they reconsidered and the case never went to Article 10. He asked the representatives to ask their CEO why the company is still pushing the project when it will be an expensive battle for everyone. He thanked them for being at the meeting and allowing all those present to have this conversation.

Paul Williamson, Lighthouse Wind, thanked Supervisor Simon for his comments and said that he appreciates his sentiment and said that he has been tasked with bringing the project through the graphic design phase and part of that process is that once they have the specific information about the project, his objective is to bring that information to the communities so that they can see what the project looks like physically and economically with other attributes as well and for him to learn as much about the community as possible while going through that process. He said that he will do this to the best of his abilities and be respectful to those who agree and to those who do not agree with him. He guaranteed to provide the information as best as he knows it at the time and he will continue to develop more information about the project and relay it to the communities in an honorable and honest way, respecting the communities' interests at the same time. He asked that Supervisor Simon and Supervisor Engert think sincerely about the opportunity to sit down and talk and outline a specific purpose, as he has heard some of the community's interests and reasoning directly he would be glad to go back and advocate and

facilitate for an appropriate meeting as long as constructive objectives have been outlined. He said that given that information, he would represent it to the CEO.

ADJOURNMENT

Moved by Councilman Riggi, whereas there is no new business to be brought before the Board, the meeting be adjourned at 9:37PM.

Seconded by Councilman Bradley

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

Respectfully Submitted,
Michele L. Harling
Yates Town Clerk