

Town of Yates September Board Meeting
8 S. Main St., Lyndonville, NY 14098
September 10, 2018, 7:00PM

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

Excused: Harold Suhr, Councilman
Roger Wolfe, Highway Superintendent

Others :	Larry Wolfe	Audrey Manning	Bob LaPorte
	Agnes LaPorte	Ralph Smith	Dennis Seekins
	Donna Bane	Carmen O'Keefe	Jessica Walsh
	Neely Kelley	Susan Campbell	Hans Hyde
	Mark Crosby	Larry Albanese	Jennie Robison
	David Robison	John Szalasny	Paul Williamson
	Floyd Koerner	Paula Simon	Jeremy Foss
	Cheryl Weldon	Paul Weldon	C. Bronson
	James Hoffman	Anne Smith	Cynthia Hellert
	Georgette Stockman	Elwyn Corser	Roger Barth
	Betty Wolanyk	Alice Wolanyk	Paul Lauricella
	Pam Atwater	Steve Royce	Michael Basil
	Faith Basil	Cathie Orr	Kate Kremer

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

PLEDGE OF ALLEGIANCE

SUPERVISOR'S REMARKS

Supervisor Simon asked that all comments be civil, made to the Board, and be kept to no more than 3 minutes long. He explained that there should only be dialog if the Board has further questions or needs clarification from those making public comment.

PRIVILEGE OF THE FLOOR ON AGENDA ITEMS ONLY

Donna Bane, Town of Yates, commented on Resolution No. 88-9/18 and asked the Board to supply the total amount of the bills and the accounts that the bills will be paid from to the public on the Town Agenda before the meeting because as a taxpayer she has the right to know.

Supervisor Simon said that the Supervisor's Report is now available on the Town website for the public to review monthly.

Ralph Smith, Town of Yates, commented on Resolution No. 88-9/18 and asked if the Town expects to exceed the budgeted amount for legal fees and if so, by how much and where will the money be transferred from.

Paul Lauricella, Town of Yates, commented on Resolution No. 88-9/18 and said that he too, would like to see the amounts of the bills and the accounts that they are coming out of either on the Town website or as a summary on the agenda.

Audrey Manning, Town of Yates, commented on Resolution No. 88-9/18 and said that because not everyone has a computer, it would be nice to have that summary available in writing for people to see.

RESOLUTION NO. 84-9/18

RESOLUTION TO APPROVE MINUTES

RESOLVED, to approve the minutes of the August 9, 2018, regular Board Meeting as presented to each Board Member.

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

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

RESOLUTION NO. 85-9/1

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 Riggi

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

RESOLUTION NO. 86-9/18

RESOLUTION ADOPTING RETIREMENT RESOLUTIONS FOR STANDARD WORK DAY REPORTING RS 2417 A&B and STANDARD WORK DAY RESOLUTION FOR EMPLOYEES RS 2418 FROM THE OFFICE OF THE NEW YORK STATE COMPTROLLER NEW YORK STATE AND LOCAL RETIREMENT SYSTEM

WHEREAS, forms RS2417 and RS2418 must be submitted every year or upon new ROA submittals, be it

RESOLVED, that these resolutions be adopted and, be it further

RESOLVED, they shall be attached to these minutes and posted on the bulletin board in the Town Hall for 30 days.

Supervisor Simon explained that as a result of the NYS Comptroller's audit, the Town needed to clarify the workdays reported for certain employees and adjust the reporting to NYS accordingly.

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

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

RESOLUTION NO. 87-9/18

STANDARD WORK DAY RESOLUTION

WHEREAS, the Retirement system requires the Town to specify the standard work days of all employees, be it

RESOLVED, the following is hereby specified as standard workdays for retirement purposes

Highway Superintendent: 8 hours
Town Clerk: 6 hours
Court Clerk: 6 hours
Town Hall Custodian: 6 hours
Highway MEO & Laborers: 8 hours
Code and Zoning Officer: 8 hours
Councilman: 6 hours
Deputy Clerk: 6 hours

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

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

RESOLUTION NO. 88-9/18

RESOLUTION TO PAY BILLS

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

RESOLVED to pay bills as follows:

A-Accounts-	\$ 25,159.21
B-Accounts-	\$ 935.05
DA-Accounts-	\$121,791.56
DB-Accounts-	\$126,327.28
Water 4-	\$ 41,234.27
Water 2-	\$
Youth-	\$ 3,650.00
Fire-	\$

TOTAL	\$319,097.37

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

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

PRIVILEGE OF THE FLOOR

Audrey Manning, Town of Yates, presented a petition signed by all of the residents of Greenman Road requesting that speed signs be placed on that road due to cars and 4-wheelers using the road as a racetrack. She explained that there are 10 homes on that road, 5 with blind driveways, and children whose safety is jeopardized because of the dangerously high speeds.

Paul Williamson, APEX Clean Energy, submitted written responses to those questions posed at the Towns of Yates and Somerset July Town Board Meetings. He also added that there will be a public informational meeting on October 2, 2018 from 7:00pm-9:30pm at the Ridgeway Fire Hall to provide detailed information on the project and additional detailed responses to any questions that the public may have at that time.

Supervisor Simon asked Mr. Williamson if this meeting information would be shared publicly outside of the Yates Town Board Meeting.

Susan Campbell read a letter submitted by a Town of Somerset resident, Sue Treitler, where she addressed some of the “facts” as stated by wind opponents that she believes have been sensationalized or even changed so they are spreading (dis) information. She stated that there are many obvious economic advantages to wind energy including clean energy, tax income, and the attraction to new families to this area.

Cheryl Weldon, Town of Yates, said that she is in support of the wind turbines because our Town is dying and needs revenue to thrive again. She submitted information from the Hardscrabble Wind Farm in Herkimer County where \$4,273,470.94 in PILOT payments were split between the towns and schools. She added that the clean energy produced at Hardscrabble is like removing 26,000 cars from the road each year.

Pam Atwater, Town of Somerset, said that after receiving the APEX postcard on bird kills she forwarded it to the POWER coalition which included 7 groups associated with bird study and conservation. NYS Ornithological Association responded that “The claim that turbines are unlikely to cause any significant or adverse decline is absolutely false”. Hawk Migration Association of North America said that “All industrial wind turbine projects are not created equal. Wind projects along...the south shore of Lake Ontario...will have a much larger impact on bird populations than projects in areas that don’t see significant concentrations of avian wildlife”.

Mark Crosby, Orleans County resident, said that he supports the Lighthouse Wind Project and submitted information from the Jericho Rise Wind Farm in Franklin County where 189 jobs were created during construction, 19 were permanent. He added that in the first year alone \$1,011,300 in PILOT payments, Host Agreements and Economic Development fees were paid to the county, towns, and school district and that \$23,321,303 is expected to be paid over the next 30 years.

Dennis Seekins, Town of Yates, quoted an excerpt with regard to the effects of global warming and the sea level from a 1966 book titled: “The Greenland Ice Cap” written by the Danish scientist Borge Fristrup that said “A complete melting of the ice sheet as it is today would cause a rise in sea level of 21 feet. If the Antarctic ice sheet also melted completely there would be a total rise of 245 feet.”

Larry Albanese, Town of Albion, said that he is a strong supporter of the Lighthouse Wind Project along with the DEC, Sierra Club, and other Conservation Groups. He said that wind is far better than coal and soot. He added that the average car on the road today kills far more birds than a wind turbine which is a published fact.

Hans Hyde, Barker School graduate, said that he benefitted as a student at Barker School from the Power Project but that the tax base is no longer existent there. He feels that this area should be seeking energy projects to bring revenue to the communities. He submitted an article that he had published in the Orleans Hub where he responds to a letter previously submitted by

Councilman Riggi to the Hub. He wondered why Mr. Riggi did not respond or clarify his points in another submittal.

Audrey Manning, Town of Yates, asked if the Town researches wind projects. She wondered if the wind project went bankrupt, what would happen. She also asked where the funds from the project are going. She asked will they go to New York City?

James Hoffman, Town of Somerset, commented on the recent mailing sent by APEX titled: "Do Wind Turbines Really Kill a Lot of Birds?" He said although admitting that turbines kill birds, why they didn't mention bats. The mailing also mentioned that the turbines will be cited away from sensitive habitats. He asked why, then, is the project moving forward in light of the analysis made by the USF&W and sent to APEX that states that the project is proposed in an area that has high avian activity.

Betty Wolanyk, Town of Somerset, submitted information with regard to wind turbines and farm programs that reduce taxes and provide governmental benefits. The submittal also addresses wind turbines and the Conservation Reserve Program (CRP), wind turbines on cropland, and the Ag Districts Law. She believes that any land that hosts industrial wind turbines should be zoned industrial and taxed accordingly.

Paul Lauricella, Town of Yates, asked if the Board has heard from the NYS Comptroller and wondered what the status of the audit report was. He said that the Supervisor's report that was supplied the past 2 months has been good, and was what he has been looking for.

Supervisor Simon said that it should be coming to a close sometime this fall, we're still going through the process. He explained that everything to this point is confidential until the State gets their report done and we respond to the report, then it is made public.

Susan Campbell, Town of Yates, submitted facts on the High Sheldon Wind Farm located in Wyoming County. She said that for the first five years the Town of Sheldon eliminated their taxes. Over the past 8 years \$1,529,069.69 was paid in PILOT fees to the County, Town, and School Districts located there. In 2017 \$877,836.60 was paid to Sheldon in Host Community fees. She said this will increase over the next 15 years with inflation. She asked if the public will be made aware of the amount of money spent to do the financial research (studies) that were asked to be done. Lastly, she said that turbines equal tax relief.

Kate Kremer, Town of Yates, said that she first heard of the Jericho Rise Wind Project because of their well-attended board meetings after the project started because of noise issues. She said that she is a member of the Sierra Club and that they do support wind energy, if they are cited properly. She said that the WNY Public Health Alliance that includes the Orleans County Public Health Department has asked the State to make industrial wind turbines get a stringent environmental review that addresses local health concerns. She submitted a NYSERDA final report from January 2103 titled "Wind Turbine-Related Noise in Western New York".

Donna Bane, Town of Yates, said that the Board agreed to split all future legal fees with the Town of Somerset for the Lighthouse Wind litigation and asked if the Board will guarantee that the Yates residents' taxes will not increase due to this agreement.

Supervisor Simon explained that the answer to this question will be in the proposed 2019 budget. He also reiterated his prior comments in the Supervisor's Remarks with regard to Privilege of the Floor comments.

Ralph Smith, Town of Yates, asked if there will be workshops open to the public during the development of the 2019 budget. He also asked for the general budget schedule.

Supervisor Simon replied that there will be a workshop meeting that develops the budget and is open to the public. He explained that the tentative budget gets sent to the Board and is reviewed and becomes the Preliminary Budget usually by November and is usually voted on in late November or early December to be ready for the next fiscal year.

Anne Smith, Town of Yates, submitted an article from the Cape Cod Times titled: "Neighbors of Plymouth turbines bring health concerns to Bourne board". She read excerpts from the article that report health issues like sleep deprivation, anxiety, nausea and headaches. She read that a Superior Court Judge wrote that a Board of Health has broad powers to regulate and prevent nuisances that affect the public's health opening the door for legal action.

Agnes LaPorte, Town of Somerset, explained that the turbines will be built by subsidies from the government which is our money. She is concerned that these will be built with her tax money when they are not needed. She added that when you stand under a turbine, they're not that bad. The farther away you get, the more you can feel the infrasound and with this flat land it will be worse.

Steve Royce, Town of Appleton, said that it's a shame that APEX and the Article 10 process is forcing this Town to spend money to defend themselves against the windmills. He asked for the time and place of the upcoming Lighthouse Public Information Meeting.

Supervisor Simon reiterated that it is on October 2, 2018, at the Ridgeway Fire Hall from 7:00pm-9:30pm.

David Robinson, Town of Yates, commended the Board and the public for being more respectful to one another since the last uncomfortable meeting. He said that we need to think beyond ourselves about the impact of what we do for the future. He said that we can disagree with each other but not to be disagreeable because it compromises our ability to think rationally, to be logical, and to look and analyze the data for the best benefits for everyone in reliable resources and alternative energy.

Pam Atwater, Town of Somerset said that they are opposing this project specifically, not renewable energy, and that Mr. Robison is a lease signer.

Cathie Orr, Town of Somerset, commented on a letter she wrote last week where she had direct contact with a resident of Sheldon who was worried about a wind turbine explosion after hearing about a gear box explosion. She explained that a half mile away, another resident heard explosive noises. She said that because of confidentiality, people are in danger with these projects because the lease holders have signed contracts that say they cannot complain. She said she would be happy to take people to Wyoming County to talk directly with those affected.

TOWN OFFICERS REMARKS

Trisha Laszewski, Town Assessor, said that she has begun working on the 2019 assessment update. On Friday she took an exam for continuing education credit. The Property Tax Relief credit checks which are part of a NYS program have started arriving in mailboxes. If anyone has questions about the check there is a number on it to call; this is administered directly by NYS Tax and Finance. She explained that people that are in the STAR Credit Check Program which is the new STAR Program that went into effect in 2015 have started receiving checks. She said if you are part of the old STAR Program you still receive your STAR benefit on your school tax bill, you will not receive a check in the mail.

Councilman Riggi gave an LWRP (Local Waterfront Revitalization Plan) update. He said that they reviewed the projects that have been brought forth with the people at the last meeting and took a look at where the projects were located on the maps and asked for further public input. There was good discussion by all attendants. The Town of Yates has a long list of projects that they will be going after the State for the money to do these projects starting with the Village. He urged all to attend the next LWRP meeting and see the great work that's being done. He agreed with Mrs. LaPort's prior statement that when in the vicinity of windmills he has equilibrium issues. He commented on the APEX post card sent out and the kill rate of birds. He said that on the surface sometimes statistical data looks like one thing but when talking about numbers, they can tell many different stories depending on how you slice them. He urged all to do their own research and make their own determination as to whether or not to take the risks of wind turbine projects in and around constituents and their families. Lastly he said that there is a lot of dissent in the Town but that everyone in the room is a good person. He said Mr. Williamson and his company has torn the Town apart. He asked Mr. Williamson to go back to his people and let them know what is going on here.

Supervisor Simon asked Mr. Williamson if the October 2nd meeting will be providing the public with a project layout and if so, how long prior to the meeting will it be provided. He asked if they are expecting any informed comments based on only providing the layout at the meeting. He asked if this is outside the purview of Article 10 because he doesn't remember this being a part of the process. He asked if this will be informing your application prior to your application being submitted to the DPS. He said that he has studied the process and is not sure where this fits and asked Mr. Williamson for help to understand. He said you have comments after the first meeting where we see the project layout; you have a subsequent meeting; what is done with the comments or substantive comments to inform your application. What commitment are you making that has been made before and gone unanswered in terms of comments to the PSS and other phases of this process that now is having to do with this inserted phase that you are describing. He said not anywhere in the Article 10 process does it say that all of a sudden there

is going to be a separate set of public hearings or meetings with comments that are outside of any requirements for you to respond by Article 10 to any of it prior to submitting an application. He said that this is a step outside of the process of the Article 10 proceeding.

Paul Williamson, Lighthouse Wind, said that the layout will be provided at the meeting, not before. He explained that they will be holding follow-up meetings and opportunities as well as the opportunity to receive written comments at the meeting. He said that they are not submitting the application in October, it will be submitted later. He said they are informing the public and after informing the public there will be follow-up meetings where they will be receiving comments from the public as a result of that meeting as per the Article 10 process. He said that he doesn't understand what Supervisor Simon means by inserted phase. He said that the Article 10 proceedings provide and allow for the company to provide information to the public. He said that the opportunity for the public to receive that information will be posted and distributed so the public will be well aware of their opportunity to come and learn about the project. He said as a result of that meeting they will receive questions and comments and they will respond to those comments and will use those comments to further inform the design of the project.

Councilman Riggi asked Mr. Williamson if he is saying that the project plan will be public. He asked if the stipulations will be complete by the October meeting.

Paul Williamson, Lighthouse Wind, said that they will be providing a preliminary layout at the meeting with additional details about the preliminary project design. He said this is preliminary because there is a long process of going through preparing their application that will be informed by additional field surveys, responses from providing that layout to public bodies and agencies. That part of the process will be informing the project design. He said the stipulations currently are completed. He believes that he said in July that their objective was to provide a layout in approximately 2 months. He said that they have been working diligently at that and the work is currently ongoing and they are doing everything that they can to provide an accurate layout by the meeting. They scheduled the meeting to allow at the earliest opportunity public information about what that layout will look like. He said you're asking for a layout, they are scheduling a meeting that provides that layout to you, so he doesn't understand why the Town is offended by the fact that they are scheduling the meeting to provide the information. He reiterated that he believes he said approximately 2 months would be his goal. He said that he does not know what decisions were made prior to his involvement in the project but he can say that once he was assigned the project his goal was to provide the project layout as quickly as possible. He has been working diligently to look at the landholdings in place and to make reasonable assumptions based on those landholdings and to work with the engineering department and environmental department and external resources such as sound and health experts to make sure that the layout is as responsible, thorough, and accurate as possible. He explained the meeting is being held in Ridgeway because they expect a large crowd and it was one of the venues that they could find that would hold that size of a crowd; they are expecting in the ballpark of 300 people. He said that he was not personally involved in picking the venue but he believes that the team that was involved reached out to these other entities and that Ridgeway had the correct space and also allowed the use. He said that Mr. Goodwin was not involved with the discussion of where to hold the APEX meeting. He said that the local venues that Supervisor Simon suggested were reached out to and APEX was denied for the use of this subject. He said that the NYSERDA

question should be directed to NYSERDA. He stressed that he is not involved in the Galloo Island project. He said that APEX would not accept money from NYSERDA but that they would accept contracts because that's part of the process of developing wind power projects. He explained that wind power projects are a three legged stool; you need a permit, a power purchase agreement and you need land. He said sometimes one of those comes before the other but you need all three to build a wind power project. He said if the timing for one of those parts of the project comes forth before the others then you accept it when it comes forth and you complete the other parts and when they are all complete, you build your project. He said that they will be applying to NYSERDA at the next round of opportunities for the project and they will be doing that while also submitting a permit and once a permit or certificate is awarded and he can't guarantee which of those will come first.

Supervisor Simon said that outside of all that has taken place or not taken place over the last 3 years, there has not been a project layout. He said 2 months ago Mr. Williamson promised a project layout and he is surprised that he didn't show up with one because today is 2 months (exactly 60 days). He said that he is disappointed in the company's inability to meet their commitments. He said that he is not questioning the October 2nd meeting he is calling them on their commitment to provide the layout by this week. He asked for an explanation as to why the project layout wasn't provided as it had been in 2 other cases that APEX was involved in to date like with Galloo Island or reasonable people might ask, Heritage Wind, which came 2 years after we started and we still don't have a project layout which is shocking and yet Heritage Wind, before stipulations even began, had a preliminary project layout. He asked why the meeting is being held in Ridgeway. He asked if the Barker Fire Hall has been assessed for that or the Barker or Lyndonville School Districts. He finds it surprising that it wouldn't be held in either of the 2 Towns where the project is proposed. He asked that Mr. Williamson get back to his CEO who has been silent throughout this, that this is probably not smart or prudent or reasonable to have the 2 Towns and the 2 Villages not have the first layout of the project, the preliminary project design, and a location in either Town. He said that even if Mr. Goodwin had to delay another 3 days, to accommodate the Townspeople, some of whom can't travel that far without transportation, who will be cut out of the public involvement and outreach aspects of Article 10. He hopes that Mr. Goodwin will reconsider. He said if the local venues denied the space for a certain day; why not change the date to accommodate our local people. He said if it's true that all of the local facilities that could accommodate 200-300 people denied the use of their building for this subject, could Mr. Williamson prove that they were denied. He said that NYSRDA awarded APEX money for the Galloo Island project but that the project has not yet been to the Siting Board. He finds that surprising and asked if he or Neil Habig who is more involved with that project have any explanation of why NYSERDA would award taxpayer money to APEX before it's been through the Siting Board. He asked if APEX has a position on whether or not they will accept the money for Galloo Island prior to the Siting Board. He asked if APEX would accept money from NYSERDA for the Lighthouse Wind project if given to them prior to the Siting Board. He asked Mr. Williamson if he feels that this is the cart before the horse. He asked if Mr. Williamson believes that this has any influence on the Siting Board when they see NYSERDA with up to a 2 billion dollar green bank awarding money to a company that has not yet been through the siting board process, don't you see any undue influence on the Siting Board or people who are appointed by the Governor who are watching this whole drama; don't you see

anything wrong with that. He said that the next surprise that we may get is that that NYSERDA is awarding Lighthouse Wind so he wanted to see what APEX's position was.

Supervisor Simon said that the Western NY Health Alliance letters are now going to be a New York Statewide Alliance letter and once that is published, it will be put on the DPS site. Once that happens he will be making some recommended changes to the wind law based on that alliance letter because now it's not just Orleans and Niagara County Health experts. He said as you may know, the director of the Orleans Genesee County Public Health Department, Mr. Paul Pettit, is the President of the New York State Alliance and he is adamant that this type of health analysis is done statewide before any other industrial wind turbine projects are approved. In light of that they are going to take that letter and revisit the wind law and obviously that process takes time and we will be putting that out to public hearings depending on what is determined.

Supervisor Simon said that next Wednesday, September 19th, 2018 from 6:00pm – 8:00pm at the Shelby Town Hall there will be a meeting on the Western Orleans County Comprehensive Plan. There will be a public information session, then a public hearing, then either a resolution to approve and send back to each municipality or to reassess any inputs that were given and make changes. The changes can be submitted now; he said that they have gotten some good ones and urged all to make inputs. He said that the more input that they get prior to the meeting, the better. He said that there is a written copy at the Town Hall for those that don't have a computer. He stressed that this is a 5 municipality product that they have been working on for a year and a half and thanked the Town of Yates participants, Linda Fisk, Mark Hughes, and the Village of Lyndonville's participants and those from the other municipalities. He said that once it comes back to each municipality, there will be another public hearing to vote to adopt it or not.

ADJOURNMENT

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

Seconded by Councilman Bradley

4 Ayes 0 Nays 1 Absent (Suhr)

Motion: Carried

Respectfully Submitted,
Michele L. Harling,
Yates Town Clerk