

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

Present: Jim Simon, Supervisor
Wes Bradley, Councilman
Jim Whipple, Councilman
Michele Harling, Town Clerk
Andrew Meier, Town Attorney
Trisha Laszewski, Assessor

Excused: Harold Suhr, Councilman
John Riggi, Councilman
Roger Wolfe, Highway Superintendent
Dan Wolfe, Code Enforcement Officer

Others :	Larry Wolfe	Paula Simon	Chris Bronson
	Bob Verhyne	Bob LaPorte	Agnes LaPorte
	James Hoffman	Betty Wolanyk	Alice Wolanyk
	Anne Smith	Paul Lauricella	Sandy Lauricella
	Cynthia Hellert	Donna Bane	Becky Winters
	Howard Pierce	Georgette Stockman	Ralph E. Smith
	Kathy Evans	Michael Basil	Faith Basil

Supervisor Simon called the November Board Meeting to order at 7:03PM.

PLEDGE OF ALLEGIANCE

SUPERVISOR REMARKS

Supervisor Simon explained that there were a couple of changes to the agenda late in the day with resolutions #105 and #107 but that the agendas on the table were the most recent version. He asked all those wishing to speak to state their name and address, to keep all comments to no more than 3 minutes total, to speak directly to the Board and to be civil.

PRIVILEGE OF THE FLOOR ON AGENDA ITEMS ONLY

Paul Lauricella, Town of Yates, submitted a prepared statement where he said that the Western Orleans Comprehensive Plan should not move forward because he feels that it “Promotes Globalism and is heavily influenced by United Nation Policy”. He commented on the recent audit done by the NYS Comptroller and said that he is embarrassed by the findings and is ashamed at the lack of leadership from the past and present boards. He feels that the town should start looking for another bookkeeper and another auditor.

Ralph Smith, Town of Yates, commented on Resolution No. 100-11/18 and said that he had indicated at the public hearing on Monday that he was concerned with the section that split out

the Town of Yates from the other two towns and villages where alternative energy was discussed. He feels that it was heavily influenced by one special interest group in the Town and the plan in general does not address the problem with not having wide band internet access particularly for families with school aged children. He commented on Resolution No. 104-11/18, with regard to the budget, and asked if the nameplates could be changed from “Councilman” to “Council Member” or “Council Person”.

Christine Bronson, Town of Somerset, commented on Resolution No. 105-11/18 where she said that as a Somerset Councilperson, she voted earlier in the evening to amend the prior 50%-50% agreement to split legal fees 80%-20%. She said that it is a prudent and fair move since Somerset will be hosting most of APEX’s wind turbines. She said that she wished that they did not have legal fees whatsoever but if that’s what it takes to fight off a project that the majority of residents oppose then that is what the town’s must do to protect the health, safety and welfare of the residents and the character of the two towns. She asked the town to approve the resolution.

Sandy Lauricella, Town of Yates, commented on Resolution No. 103-11/18 said that she doesn’t know what to think about the resolution on the audit because if they are not looking for fraud, why bother conduct the audit. She said that anybody can make the numbers match but after looking at the Comptrollers report she is leery with the town audit. She feels that it’s time to look around for a new auditor.

Betty Wolanyk, Town of Somerset, commented on Resolution No. 105-11/18 by encouraging the Board to pass the resolution and change the intermunicipal agreement to 80%-20% in light of the October 2nd APEX meeting and the placement of the wind turbines. She thinks that it will make those complaining about the 50%-50% split more at ease about continuing to fight APEX which she wholeheartedly thinks that we should do.

Cindy Hellert, Town of Yates, commented on Resolution No. 105-11/18 and said that this is a very noble approach that the Boards are taking. She said that the fact that they are working together on anything shows that we have a great deal of respect for each other and she hopes that the resolution gets approved.

Anne Smith, Town of Yates, agrees with Resolution No. 105-11/18 and feels that the 80%-20% split will eliminate a lot of the disruption in the Town over legal expenses. She said that we’re all in this together and this resolution is a great idea.

RESOLUTION NO. 97-11/18

RESOLUTION TO APPROVE MINUTES

RESOLVED, to approve the minutes of the October 11, 2018 Regular Board Meeting as presented to each Board Member.

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

3Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

RESOLUTION NO. 98-11/18

RESOLUTION TO APPROVE MINUTES OF COMPREHENSIVE PLAN PUBLIC HEARING

RESOLVED, to approve the minutes of the November 5, 2018 Western Orleans Comprehensive Plan Public Hearing as presented to each Board Member.

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

Supervisor Simon thanked all of those residents that attended the Western Orleans Comprehensive Plan meetings and made their voices and comments heard.

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

RESOLUTION NO. 99-11/18

RESOLUTION TO APPROVE MINUTES OF PRELIMINARY BUDGET PUBLIC HEARING

RESOLVED, to approve the minutes of the November 5, 2018 Preliminary Budget Public Hearing as presented to each Board Member.

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

Supervisor thanked all of those that participated.

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

RESOLUTION NO. 100-11/18

RESOLUTION TO APPROVE SENDING THE WESTERN ORLEANS COMPREHENSIVE PLAN TO THE ORLEANS COUNTY PLANNING BOARD

WHEREAS, the Yates Town Board has reviewed the final draft of the Western Orleans Comprehensive Plan, and

WHEREAS, a public hearing on the plan was conducted on November 5, 2018, and comments received and duly noted, be it

RESOLVED, that the Town of Yates sends the Western Orleans Comprehensive Plan to the Orleans County Planning Board for their review.

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

Supervisor Simon addressed Paul Lauricella's concern saying that the plan itself still needs to go through two more iterations of review; one by the County Planning Board and another final review here that could result in subsequent changes so keep providing feedback and make comments. This can be done for another month or so until we get to the December Board Meeting where it may be voted on and adopted.

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

RESOLUTION NO. 101-11/18

RESOLUTION TO APPROVE LAKE ONTARIO FLOOD GRANT REQUESTS FOR PROPOSALS AND REQUESTS FOR QUALIFICATIONS FOR GRANT ADMINISTRATION AND ENGINEERING

WHEREAS, the Town of Yates has received a grant for the Lake Ontario flood damage from the NYS Office of Community Renewal to remediate damage to town property on the lake, be it

RESOLVED, that the Yates Town Board hereby authorizes the Town Clerk to publish the Request for Engineering Qualifications, Request for Grant Administration Qualifications, Request for Proposals for Engineering Services and Request for Proposals for Grant Administration Services for the Shoreline Protection Project in the Town of Yates Legal Newspaper, and be it further

RESOLVED, the Town Board authorizes the Town Clerk to forward copies of the RFQs and RFPs to various firms in accordance with the requirements of the NYS Office of Community Renewal requirements, in compliance with the Community Development Block Grant (CDBG) Program.

Supervisor Simon explained that this is to put out the proposals for engineering firms and grant administration firms to place bids. The timing and the public hearing will be published in December. He hopes to have the engineering firm and grant administrator picked out by the spring so that they can move forward with remediating the Town Park shoreline, and the shorelines of Marshall and Countyline Roads.

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

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

RESOLUTION NO. 102-11/18

RESOLUTION TO AUTHORIZE YATES TOWN SUPERVISOR TO EXPEND \$2,000 TOWARD THE ORLEANS COUNTY WATER STUDY BEING CONDUCTED BY WENDEL ENGINEERING

WHEREAS, Orleans County has contracted with Wendel Engineering to conduct a county-wide water study, and

WHEREAS, it is in the best interest of the Town of Yates to participate in this study, be it

RESOLVED, that the Yates Town Supervisor is authorized to expend \$2,000 in support of this study.

Supervisor Simon said that normally an expenditure of \$2,000 would not require a resolution but this allows us to participate in a County-wide study for all of the public water systems and that most of the Towns will be participating. Half of the grants funding is being picked up by the County and the Towns will be contributing the other half. He added that this could make a big difference in the water district's capabilities. He said the study will not dictate what will be done; it identifies and suggests substantial multi-million dollar proposals. That process will go through the public hearing process.

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

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

RESOLUTION NO. 103-11/18

RESOLUTION TO ACCEPT SINGLE AUDIT FROM AMATO, FOX & COMPANY, PC

WHEREAS, Amato, Fox & Company, PC has audited the records for the Town of Yates for the year ending December 31, 2017, and

WHEREAS, the Board was presented with a copy of the audit report in October for their review, and

WHEREAS, Richard K. Ertel, CPA Partner with Amato, Fox & Company, PC presented the 2017 audit to the Yates Town Board at their November 5, 2018, Workshop Meeting, be it

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

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

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

RESOLUTION NO. 104 -11/18

RESOLUTION TO ADOPT THE PRELIMINARY BUDGET AS THE TOWN OF YATES FINAL BUDGET FOR FISCAL YEAR 2018

WHEREAS, a Public Hearing was held on November 5, 2018, at 6:00PM at the Yates Town Hall to present the Preliminary Budget and all persons wishing to be heard had a chance to speak, be it

RESOLVED that the Preliminary Budget be adopted as the Final Budget for the year 2019 and, be it

FURTHER RESOLVED, that a copy of such budget shall be attached to these minutes.

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

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

RESOLUTION NO. 105-11/18

RESOLUTION TO AMEND THE INTERMUNICIPAL AGREEMENT WITH THE TOWN OF SOMERSET TO AN 80% / 20% SPLIT RETROACTIVE TO JULY 1, 2018

WHEREAS, the Town of Yates and the Town of Somerset have engaged an Intermunicipal Agreement dated May 9, 2018, to share legal services fees by the law firm Lippes Mathias Wexler Friedman LLP on a 50% / 50% basis with regard to the Lighthouse Wind Article 10 project, be it

RESOLVED, that the Yates Town Supervisor is authorized to sign an amendment to the Intermunicipal Agreement to reflect an 80% Somerset / 20% Yates split effective July 1, 2018.

Supervisor Simon explained that he attended a meeting the day before with Supervisor Engert and Legal Counsel where they had a very good discussion over the legal split. He said that Supervisor Engert, with the coordination of his Board, made the 80%-20% offer. He explained that the rest of the agreement will stay the same with equal voice and equal coordination with counsel. There could still be cases where the Town of Yates decides to spend money directly through legal counsel like with the possibility of updating our wind laws. In addition, Dennis Vacco with Lippes Mathias offered a 10% discount on all legal charges since the joint agreement was signed and for all future charges because he understands how much money the Towns have to spend on legal fees. This has been put in writing.

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

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

RESOLUTION NO. 106-11/18

RESOLUTION TO ADD DELINQUENT WATER TO TAXES AND ADD \$100.00 FEE

WHEREAS, there are water customers with delinquent water bills that have been notified by mail that such bills not paid by November 13, 2018 will be relieved on their Town/County tax bill with an additional \$100.00 fee, be it

RESOLVED, that the clerk shall send a list of said delinquent water bills to the Orleans County Real Property Director and levy unpaid water bills on the 2019 Town/County bills.

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

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

RESOLUTION NO. 107-12/17

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: \$196.44
- Level 2: \$160.00
- Level 3: \$ 5.11

Supervisor Simon explained that this is done every year. He said that the increases are minimal to accommodate the new water districting on Ward and Goodwin Roads.

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

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

RESOLUTION NO. 108-11/18

RESOLUTION TO PAY BILLS

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

RESOLVED to pay bills as follows:

Fund A (General – Townwide)	\$109,809.88
Fund B (General – Outside Village)	\$ 1,425.10
Fund DA (Highway – Townwide)	\$ 20,542.35
Fund DB (Highway – Outside Village)	\$ 20,518.77
Water 4-	\$ 11,982.49
Water 2-	\$
Youth-	\$
Fire-	\$

TOTAL	\$164,278.59

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

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

PRIVILEGE OF THE FLOOR

Sandy Lauricella, Town of Yates, said that she came to the Town Board 10 years ago with a concern over information she found on Open Books NY which compares the Towns expenditures. She said that between 2006 and 2008 there was a million and a half dollars missing that was put under culture and recreation and she questioned this because in the Town of Yates where could there be \$1.5 million dollars of culture and recreation. She said that when she questioned this years ago they told her that it was mistakenly but in with water, something bogus. She said that when she compared this with other Towns for the same years their expenditures were around \$2,000-\$5,000 and that the numbers don't add up.

Donna Bane, Town of Yates, thanked the Board for making available the Highway accounts and their expenditures on the agenda.

Larry Albanese, Town of Gaines, said that he has no affiliation with Lighthouse Wind, Heritage Wind or APEX and that he is not a leaseholder and has no financial interest or affiliation with APEX. He read a release that came the week before from APEX and the Sierra Club which stated that the Sierra Club Atlantic Chapter unanimously endorsed the proposed Lighthouse Wind project in the Towns of Somerset and Yates. The letter was submitted in entirety and stated the reasons for their endorsement.

Paul Lauricella, Town of Yates, spoke about his concerns over the audit and submitted documents that support his position. He feels that our books have been screwed up by the bookkeeper since 2006 and said that in 2012 a State audit was performed on our water district; because of this the Town purchased new water software to do the books and now the bookkeeper says that the software is not user friendly. He feels that she should have been guiding the new Supervisor. He said she should not have been considered an employee of the Town and should not receive a pension/retirement check from her employment here. He thinks that the Town should look for a new bookkeeper. His other concern was related to the purchase of road material sold to the Town by Millennium Roads. He questioned why the material was not metered and when he called other Towns for their average usage, he found out that they use considerably less than the Town of Yates.

Betty Wolanyk, Town of Somerset, attended the APEX forum on October 2nd and asked several questions; she acknowledged that the answers to her questions have been posted. She said that the answers they gave were not so good. She does not appreciate the fact that APEX repeatedly makes the statement that only a few of the residents in the Towns disapprove of the Lighthouse Wind Project which is in conflict with all of the surveys that have been done. She added that a Sierra Club member attended a Town of Yates meeting where he criticized an SOS member that had said that the Sierra Club supported Lighthouse Wind. The Sierra Club representative stated that they had not taken a position and wouldn't until a formal proposal had been filed. So why in their hypocrisy did they come out in support of the project without a formal proposal.

James Hoffman, Town of Somerset, thanked the Board for adopting Resolution No. 105-11/18 and their detailed explanation at last month's meeting of what a PILOT is. He submitted an outline of the specs of the wind turbines proposed and said that he has concerns over dragging

the parts of the turbines all over town and the impact that it could have on traffic. He also stated concerns over noise, bird kill, and the construction areas for the turbines. He feels that the construction areas have not been adequately addressed and said that there are better ways out there to save the environment.

Agnes LaPorte, Town of Somerset, said that she was here when the Sierra Club representative said that they would not publicly comment, support or not support a wind project that was not in the application phase. She was very surprised to see the article in the paper of their support and wondered if any of their members are planning to relocate to within 10 miles of the project area. She said that there are lawsuits in many communities where turbines are located against the wind companies. She commented on one of the answers from APEX to a question asked at the public forum about whether or not local people will be hired for the project. In one section they said that as many local people will be hired as possible but in another section they stated that the construction phase will be good for the economy because of all of the accommodations that will be needed which is contradictory. She thanked the Boards for working together on the 80%-20% split.

Anne Smith, Town of Yates, thanked the Board for their hard work over the last few years. She commented on the importance of the completion of public water access to the whole town, the update to the local waterfront redevelopment plan and their support of the fire and ambulance services. She said that the Board hears resident's complaints regularly and it's important to let them know that they are doing a great job.

Mike Basil, Town of Yates, addressed the Sierra Club letter and said that the fact that they would endorse the project without any knowledge of what's going on is ridiculous. He said that the fact that they want to endorse it to bring clean renewable energy to the area shows how ignorant they are because this area is already 100% renewable so why would they endanger everything around here to build a project we don't need and waste taxpayers money when we're already 100% renewable.

Bob Verhyne, Town of Somerset, thanked the Board for passing Resolution No. 105-11/18 and said that for those in Lyndonville without internet, Mr. Spitzer is working for a wind company down near Arkwright and is eating from both sides of his head and has been a wind fan all along.

TOWN OFFICERS REMARKS

Trisha Laszewski, Town Assessor, said that she is starting to prepare the exemption renewal notices that will go out the end of December and she is continuing to work on the assessment update.

Supervisor Simon made a comment about the NYS Comptroller's audit. He said that they performed a very important service to the Town, to the Board and to him personally. He said that he should have gone to the finance class when he attended the new Town Board Member training in Rochester because he didn't pay as close attention to the budgeting process along the course of time as he should have. The key findings and recommendation of the audit are available on the Comptroller's website and are accurate and he takes responsibility for those. He

plans to do his best along with his colleagues to get everything remediated, especially the fund balance in A. He explained that they were given the opportunity to respond to the letter which he did, and he read a few statements from that response. He thanked the Comptroller's Office for their report because if they had not come when they did the level of attention and emphasis on fund balance A would not have occurred. He said that all of the other statements made about the Supervisor were taken to heart and some of them were remediated right away like the financial reports to the Supervisor. He said the accuracy is good and it gives the Board a much clearer trend analysis on spending within the accounts and on the fund balance. He said that the recommendation on maintenance of cash ledgers and reconciliations are in the works. The reporting to the Supervisor and to the Board and what is public information is on track and of all the things that have been recommended; the only thing that will take more than 90 days that we have to report back on with a critical [corrective] action plan is the fund balance. He estimates that it will take 2 to 3 years to do it without going over the tax cap and without decreasing services and not draining the remaining fund balance. He said the fund balances for the Town are healthy. He explained that the Town's internal auditors, Amato and Fox, explained this to the Board on Monday at the Workshop Meeting. The overall fund balance over all in the accounts is \$1.2 million which is healthy but A is not in good shape being \$91,000 in the hole to date so it's time to tighten their belts. He said this can't be fixed in one year but they prepared the 2019 budget, which was reviewed by the auditor who gave it a nod. He said when they provide to the auditor and the State Comptroller's Office the critical [corrective] action plan which is due January 5th they will have to prove that the steps that they have taken with the 2019 budget and their plan moving forward to manage the fund balance is adequate. He explained that some costs in the Town are going up like the ambulance service and the fire department budget which they are trying to manage always keeping the tax cap issue in mind but still trying to get A back into shape. He publicly apologized to the degree that he failed to do the things that he is supposed to do and he committed himself to fixing the problems and will take responsibility for that too acknowledging that most are in the process of being fixed with the exception of the fund balance in A; that may take a year or two.

ADJOURNMENT

Moved by Councilman Whipple, whereas there is no new business to be brought before the Board, the meeting is adjourned at 7:55PM.

Seconded by Councilman Bradley

3 Ayes 0 Nays 2 Absent (Suhr, Riggi)

Motion: Carried

Respectfully Submitted,
Michele L. Harling
Yates Town Clerk