

Town of Yates December Board Meeting  
8 S. Main St., Lyndonville, NY 14098  
December 13, 2018, 7:00PM

Present: Jim Simon, Supervisor  
Wes Bradley, Councilman  
Jim Whipple, Councilman  
Harold Suhr, Councilman  
John Riggi, Councilman  
Michele Harling, Town Clerk  
Andrew Meier, Town Attorney

Excused: Roger Wolfe, Highway Superintendent  
Trisha Laszewski, Assessor  
Dan Wolfe, Code Enforcement Officer

Others :	Maryellen Royce	Steve Royce	James Hoffman
	Paula Simon	Bob LaPorte	Agnes LaPorte
	Ralph E. Smith	Donn Riggi	Kathy Evans
	Georgette Stockman	Chris Crafts	Anne Smith
	Cynthia Hellert	Richard Hellert	Howard Pierce
	Bruce Williams	Dale Aikitas	Betty Wolanyk
	Alice Wolanyk	Kate Kremer	Paul Lauricella

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

**PLEDGE OF ALLEGIANCE**

**PRIVILEGE OF THE FLOOR ON AGENDA ITEMS ONLY**

Ralph Smith, Town of Yates, read and submitted a prepared statement with regard to Resolution No. 114-12/18. He said that the NYS Comptroller's audit cited the Town for "lax supervision of the Town's finances" and was a scathing report. He added that if a municipal employee or other private sector employee had done this, they would have been fired. He feels that the report resulted in the Town Bookkeeper's resignation and noted that the Town has contracted with the same individual through a Limited Liability Company. He suggested that the Board tear up the Town of Somerset agreement to share legal fees in an effort to start fixing Town finances.

**RESOLUTION NO. 109-12/18**

**RESOLUTION TO APPROVE MINUTES**

RESOLVED, to approve the minutes of the November 8, 2018 Regular Board Meeting as presented to each Board Member.

Offered by Councilman Whipple, who moved its adoption

Seconded by Councilman Bradley

4 Ayes 0 Nays 1 Abstain (Riggi)

Motion: Carried

**RESOLUTION NO. 110-12/18**

**RESOLUTION OF THE YATES TOWN BOARD AUTHORIZING CERTAIN ACTIONS WITH RESPECT TO THE ORLEANS REVOLVING LOAN FUND, AS ADMINISTERED BY THE COUNTY OF ORLEANS INDUSTRIAL DEVELOPMENT AGENCY**

WHEREAS, The Town of Yates (the “Town”) was the recipient of a \$470,000 grant from the New York State Housing Trust Fund Corporation represented by the Governor’s Office for Small Cities through the Community Development Block Grant (CDBG) Program (GOSC Grant #1280ED244-01) (the “CDBG Grant”), and

WHEREAS, the Town entered in an agreement with the County of Orleans Industrial Development Agency (“COIDA”) dated November 20, 2001 (the “Subrecipient Agreement”) pursuant to which the Town provided \$450,000 of the CDBG Grant proceeds to COIDA for the purpose of making a loan to a business, and

WHEREAS, pursuant to the Subrecipient Agreement, any Program Income, as defined in the CDBG regulations (“Program Income”), resulting from the use of the CDBG Grant was to be used by COIDA to administer a revolving loan fund, and

WHEREAS, COIDA established the Orleans Revolving Loan Fund (“ORLF”) and used Program Income resulting from the CDBG Grant to partially fund the ORLF, and

WHEREAS, Orleans County, the Towns of Albion and Shelby and the Village of Holley (collectively with the Town, the “Municipalities”) also received grants of CDBG funds and provided such grants to COIDA pursuant to subrecipient agreements, which likewise required any Program Income resulting from use of such grants be used by COIDA to administer a revolving loan fund, and COIDA used such Program Income to partially fund the ORLF, and

WHEREAS, COIDA has continued to administer the ORLF and to make loans from the ORLF to support business development and job creation in Orleans County and the funds held in the ORLF

and the loans receivable contained in the ORLF constitute Program Income of each of the Municipalities (on a pro rata basis) which is subject to certain rules and regulations promulgated by the United States Department of Housing and Urban Development (hereinafter “HUD”) and the New York State Office of Community Renewal (hereinafter “OCR”) regarding their use, and

WHEREAS, OCR has notified the Town and other recipients of CDBG funds that it is requiring that all Program Income not spent on, or committed to, CDBG-eligible activities by March 31, 2019 be paid to the OCR by April 30, 2019, and that any loan repayments received by revolving loan funds which constitute Program Income after March 31, 2019 must be remitted to OCR and, as a result, repayments received on ORLF loans after such date will no longer be available to make loans in Orleans County, and

WHEREAS, any proposed use of Program Income prior to March 31, 2019 must be approved by OCR, and

WHEREAS, COIDA has notified the Town and the other Municipalities that, in order to allow for use of the Program Income to further economic development and investment within Orleans County, it wishes to have the ability to use, or commit to use, the Program Income prior to April 1, 2019 for any eligible CDBG activity, subject to OCR approval, and to pay CDBG-eligible expenses including grant administration and program delivery costs, and

WHEREAS, OCR must approve the use of Program Income and has requested that one of the Municipalities be designated to submit such requests for approval and perform any administrative activities and monitoring required for uses of CDBG funds, including completing any federal environmental review, and

WHEREAS, Orleans County is willing to assume such role, subject to the approval of the other Municipalities and subject to the execution and delivery of a cooperation agreement by and among the Municipalities, and

WHEREAS, the Subrecipient Agreement contemplates use of Program Income resulting from use of the CDBG Grant to make loans, and the use of funds held in the ORLF for other purposes would require approval of the Town and a change to the Subrecipient Agreement, and

WHEREAS, OCR's requirements regarding the return of Program Income will result in the ORLF no longer being viable as a revolving loan fund and necessitate changes to the Subrecipient Agreement to allow for the winding down or sale of the ORLF, and be it

RESOLVED, that the Town of Yates Board: Approves the use, or commitment, of Program Income by COIDA prior to April 1, 2019 for any eligible CDBG activity, subject to OCR approval, and to pay CDBG-eligible expenses including grant administration and program delivery costs, and Authorizes, subject to the approval of the other Municipalities, Orleans County to submit the requests for approval of the use of Program income to OCR on behalf of all of the Municipalities Approves designation of the Chair of the Orleans County Legislature to act as Certifying Officer responsible for all activities associated with the federal environmental review process to be completed in conjunction with the use of CDBG funds, subject to the approval of the other Municipalities, Authorizes the Orleans County to undertake any administrative activities and monitoring required for uses of CDBG funds, subject to approval of the other Municipalities and subject to the execution and delivery of a cooperation agreement by and among the Municipalities which shall be subject to the approval of the Town Attorney as to form and content, and Approves the amendment of the Subrecipient Agreement to (i) prohibit use of Program Income in the ORLF on or after April 1, 2019 to make loans, with the intent that on and after such date, the ORLF shall no longer constitute a revolving loan fund and shall be renamed the Orleans Loan Fund (the "OLF"), (ii) provide for the continued servicing and administration of the OLF by COIDA in accordance with CDBG requirements to the extent that COIDA continues to hold any OLF loans, (iii) allow COIDA to use OLF Program Income prior to April 1, 2019 to fund, or to commit to funding, any eligible CDBG activity, subject to OCR approval and the approval of the COIDA Board, and to pay CDBG-eligible expenses including grant administration and program delivery costs, (iv) allow for the sale of all or a portion of the loan portfolio of the OLF for a reasonable price as established by a written valuation, subject to approval of OCR (if required), and deposit of the net sale proceeds (which constitute Program Income) into COIDA's OLF account, (v) provide for return of the Town's pro rata share of Program Income in the form of cash on hand in the OLF which has not been spent on, or committed to, CDBG-eligible activities, or spent on CDBG-eligible expenses, including administrative and program delivery costs, by March 31, 2019, with such funds to be returned by April 10, 2019, (vi) to the extent that COIDA continues to hold any OLF loans on

or after April 1, 2019, provide for the return to the Town of the Town's pro rata share of any OLF loan repayments received by COIDA on or after April 1, 2019 that constitute Program Income, with such funds to be returned by April 10 of each year, (vii) to the extent that COIDA holds any OLF loans on or after April 1, 2019, provide that any future income generated by OLF loans held by COIDA that is not "Program Income" under HUD regulations be deemed unrestricted funds to be retained and used by COIDA without restriction, with such determination to be made on March 31 of each year, and (viii) make such further amendments as shall be mutually agreed to by the Town and COIDA, such amendment agreement to be subject to the approval of the Town Attorney as to form and content.

Offered by Councilman Riggi, who moved its adoption

Seconded by Councilman Bradley

Supervisor Simon explained that the method the IDA has been using for revolving funds is being discontinued so the reimbursements back to the Town is going to occur with this resolution. In January through March they will decide how to use the money, around \$8,200.00, which has to be used for specific purposes. They will have to discuss how to use the funds; this discussion will be made public.

4 Ayes 0 Nays 1 Abstain (Whipple)

Motion: Carried

## **RESOLUTION NO. 111-12/18**

### **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 Whipple

5 Ayes 0 Nays

Motion: Carried

**RESOLUTION NO. 112-12/18**

**RESOLUTION TO MAKE APPOINTMENTS BY THE TOWN BOARD TO THE ORLEANS COUNTY PLANNING BOARD**

WHEREAS, the Orleans County Department of Planning and Development notified the Town that the three-year terms of the Town's current representative and alternate will expire as of December 31, 2018, and

WHEREAS, County Planning Board members can succeed themselves, be it

RESOLVED, to make the following appointments:

County Planning Board Representative-----Gary Daum-1/1/19-12/31/21  
County Planning Board Alternate-----Edward Urbanik-1/1/19-12/31/21

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

5 Ayes 0 Nays

Motion: Carried

**RESOLUTION NO. 113-12/18**

**RESOLUTION TO SET YEAREND MEETING**

RESOLVED, to set the yearend meeting for December 27, 2018 at 6:00PM.

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

5 Ayes 0 Nays

Motion: Carried

**RESOLUTION NO. 114-12/18**

**RESOLUTION TO CHANGE ASSESSOR'S NORMAL WORK DAY**

WHEREAS, the Assessor has asked to change her normal Town of Yates workday from Friday to Thursday, be it

RESOLVED, that the Assessor will work on Thursday from 9:00AM to 4:30PM with a lunch break from 12:30PM to 1:30PM.

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

5 Ayes 0 Nays

Motion: Carried

**RESOLUTION NO. 115-12/18**

**RESOLUTION TO APPROVE FUND BALANCE POLICY**

WHEREAS, the October 2018 NYS Office of the Comptroller Audit Report noted that the Town of Yates does not have a Fund Balance Policy, be it

RESOLVED, that the Fund Balance Policy dated December 13, 2018 is now in effect.

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

Supervisor Simon explained that the fund balance policy was developed, reviewed, and vetted and will definitely get the Town's finances headed in the right direction.

5 Ayes 0 Nays

Motion: Carried

**RESOLUTION NO. 116-12/18**

**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)	\$ 34,460.51
Fund B (General – Outside Village)	\$ 1,567.78
Fund DA (Highway – Townwide)	\$ 23,522.73
Fund DB (Highway – Outside Village)	\$ 6,064.57
Water 4-	\$ 38,202.80
Water 2-	\$

Youth-	\$
Fire- -----	
TOTAL	\$103,818.39

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

5 Ayes 0 Nays

Motion: Carried

**PRIVILEGE OF THE FLOOR**

Paul Lauricella, Town of Yates, addressed the 80%-20% split with the Town of Somerset. He said that he was glad to see the split reduced from 50%-50% which could have increased taxes, especially in light of the 2019 revaluation project that may increase assessments. He said that he did not buy his house as an investment he bought it to live in so he does not want to see the value go up. He also said that the Town Highway needs to pay more attention in the winter to the section of road between the two Johnson properties on the West Yates Center Road which can become very slick due to the mist off Johnson’s Creek and the open fields in that area.

Anne Smith, Town of Yates, said that over the last year she has read a lot about Towns fighting wind projects and the difficulty that they’ve had so she thanked the Town Board for their hard work and dedication and for listening to the people of the Town to fight the project. She wished the Board a Merry Christmas and Happy New Year.

Steve Royce, Town of Appleton, said that he was disappointed, like many others, in the responses APEX gave after their October 2<sup>nd</sup> forum especially with their CO2 and global temperatures response. He did his own research on the subject and calculated that it would take 1,187 Lighthouse Wind Projects to stop just 1% of global CO2 emissions. He calculated that to reduce CO2 emissions by 20% it would take 23,740 Lighthouse Wind projects at an estimated cost of over 7 trillion dollars. He said that the taxpayers will not be the ones getting rich (they foot the bill for the tax credits) it will be the investors of the projects, the big banks, the developers, and the organizations that are supported by Big Wind.

Kate Kremer, Town of Yates, broke down how the turbines will be placed in the Town of Yates and determined that 7 families will have a turbine placed on their property and that only one is a local farmer. She said that two of the seven Yates families live outside of the project area so they get the money and do not live with the impact. She feels that the specifics of who carries the burden and who gets the benefit are very important. She submitted a letter from Amy Kahn, President of the Rochester Birding Association that states that after studying biological data from long term studies “It is likely that there will be unacceptable levels of avian mortality”. She submitted additional articles titled: “Salina considers alternative energy uses for landfill”, and “Wind Turbines Can Act Like Apex Predators” for the Board’s review.



Betty Wolanyk, Town of Somerset, said that in the Article 10 Process one of the points is the need for the project; she gave the Town Board members a postcard of the Niagara Power Project and said that this is why the Lighthouse Project is not needed. She stated that the Niagara Power Project uses green renewable energy and is not being fully utilized because of a transmission issue. She said that if more wind projects are built in Western NY the wind will have to be diverted in extreme ways, losing a lot of electricity in the process. She explained that there was a 900 acre solar farm proposed for the Town of Cambria in an area that already cannot transmit all of the clean renewable energy it's capable of producing. She said that if they build all of the wind projects and solar farms proposed they will need to build additional transmission lines crisscrossing the area using eminent domain to do that. She said that we do not need Lighthouse Wind.

Georgette Stockman, Town of Yates, said that many have doubted the environmental soundness of the Lighthouse Wind Project. She said that this year the Sierra Club's Atlantic Chapter chose to support the project. She read their mission statement and said that given this statement, they should be concerned about the protection of the natural habitat of the Great Lakes, especially Lake Ontario. She added that if the wind turbines are erected, the quality of the environment will "not be maintained for either the natural or human environment". She said that there is no environmental reason for this project to move forward and submitted a photo of a bald eagle taken at her cottage last summer. She also submitted an article from the U.S. Fish & Wildlife Service about eagle facts.

James Hoffman, Town of Somerset, thanked the Board for their leadership over the last few years in opposing the Lighthouse Wind Project. He said that with the arrival of Paul Williamson to Apex, there has been a huge propaganda campaign with colored post cards, an APEX forum, and newspaper articles. He explained that there are more effective and less political options available to save the planet like conservation of resources, full utilization of hydro-power, recycling, and to let the green stuff grow. He said that these options would not damage and clutter the planet like the Lighthouse Wind Project would.

Maryellen Royce, Town of Appleton, explained that she will have 5 turbines within a 2 mile radius of her home so the decisions of both Board's will affect her health, her families health, her property values, the safety of the bald eagles along the shoreline, and the bats which are so necessary for agriculture. She said that it is criminal that the Towns of Somerset and Yates are forced to defend themselves against unwanted intruders because of the Article 10 Process. She expressed her gratitude and thanked the Board for their fight against APEX and wished them a Merry Christmas.

Ralph Smith, Town of Yates, said that he saw the Bookkeeper's RFQ on the Town website which he felt was the lowest level of exploration and consistent with the Board. He started doing some research on Millennium Roads and said that they are a foreign corporation granted authority as a Limited Liability Corporation, they are not incorporated in New York and they are not permitted or authorized to offer professional services; that is not in their charter. He said that he assumes that the Town has some back up plan besides Millennium Roads because if the Town continues to call Bookkeeping Services "Professional Services" the Town will have to look elsewhere as Millennium Roads is a road salt company.

Howard Pierce, Town of Yates read a prepared statement where he spoke to two points. He asked permission from Supervisor Simon to speak to the entire audience. First he recognized the United

States Military and our past Commander and Chief and true World War II hero President George Herbert Walker Bush. He gave a brief history of President Bush's military experience and mentioned that his father was also in the military serving in the U.S. Army Air Corp. He asked all in attendance that when they see a veteran to thank them for their service not just at Christmas, but all year long. His second point was to recognize the Christmas trees in the Village Park, especially the SOS tree and the Lighthouse Wind tree. He said that to him these trees represent that although we have differences, we can have something in common, too. He asked everyone to remember what Christmas is really about.

### **TOWN OFFICERS REMARKS**

Councilman Suhr said that although we keep hearing about the greenhouse effect, Florida is experiencing one of the coldest winters ever so now all of the experts are saying that with the greenhouse effect you can have cold winters in warm places. He said that the carbon footprint and green energy issues seem more confusing than they are true. He added that his old high-school chemistry teacher said that eventually New York will be like Florida and Florida will be like New York so he is going to start pushing that theory because someone said it so it must be true.

Councilman Riggi said that he appreciates and agrees whole-heartedly with Mr. Pierce's statements tonight. He wished everyone a Merry Christmas.

Supervisor Simon said that it's hard to repeat or beat anything that has been said so he thanked everyone for their well-wishes and the course-corrections provided and recognized that he has some work to do and said that they should have a corrective action plan soon. He thanked everyone for coming.

### **ADJOURNMENT**

Moved by Councilman Suhr, whereas there is no new business to be brought before the Board, the meeting be adjourned at 7:40PM.

Seconded by Councilman Riggi

5 Ayes 0 Nays

Motion: Carried

Respectfully Submitted,  
Michele L. Harling  
Yates Town Clerk