Town of Yates September Board Meeting
8 S. Main St., Lyndonville, NY 14098
September 10, 2020, 7:00PM

Present: Jim Simon, Supervisor
Susan Hrovat, Councilman
John Riggi, Councilman
Jim Whipple, Councilman
Harold Suhr, Councilman
Michele Harling, Town Clerk
Trisha Laszewski, Assessor
Dan Wolfe, Code Enforcement Officer

Excused: Roger Wolfe, Highway Superintendent

Others : Georgette Stockman

Supervisor Simon called the September Board Meeting to order at 7:04PM.

**PLEDGE OF ALLEGIANCE**

**SUPERVISOR'S REMARKS**

Supervisor Simon explained that there was an edited version of Resolution No. 81-9/20 just given to the Board Members. The revisions will be explained later in the meeting.

**CORRESPONDENCE**

No correspondence.

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

**RESOLUTION NO. 80-9/20**

**RESOLUTION TO APPROVE MINUTES**

RESOLVED, to approve the minutes of the August 13, 2020 regular Board Meeting as presented to each Board Member.

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

5 Ayes 0 Nays

Motion: Carried

**RESOLUTION NO. 81-9/20**

**RESOLUTION OPPOSING OFFSHORE GREAT LAKES LARGE-SCALE INDUSTRIAL WIND TURBINE NEW YORK STATE FEASIBILITY STUDY**

WHEREAS, the State of New York released its Offshore Wind Master Plan in January 2018 which estimates that thirty percent of New York's renewable power will derive from offshore wind, and

WHEREAS, the State of New York initiated the NYS Great Lakes Wind Feasibility Study in June 2020 ostensibly to provide a "broad assessment that considers wind energy development in Lake Erie and Lake Ontario through a framework that is sensitive to environmental, maritime, economic and social issues while considering market barriers and costs," and

WHEREAS, the Lake Ontario lakefront counties of Niagara, Orleans, Monroe, Wayne, Oswego and Jefferson have all banned offshore large-scale industrial wind turbine project development, and

WHEREAS, the waters and shoreline of the Lake Ontario littoral consistently return millions of tourism dollars annually to the local economy through fishing, recreational boating, swimming, cottage rentals, hiking and biking, and local festivals and community celebrations, and

WHEREAS, the Town of Yates and our residents have worked tirelessly to improve water quality and rebuild public facilities so visitors and residents can continue to enjoy the unblemished beauty of our Lake Ontario shoreline and its beautiful sheltered embayments, and

WHEREAS, the establishment of large-scale industrial wind emplacements off the Town of Yates' Lake Ontario shoreline threatens the way of life of lakefront property owners and the thriving tourism economy and the resulting revenues that local businesses depend upon, and

WHEREAS, The New York Power Authority publicly stated in June 2010 that projects should only be sited in Lake Ontario where wind speeds are 17 miles per hour or greater, water depths are 150 feet or less and that turbines are not located in shipping lanes, and

WHEREAS, these location variables would impose a severe encroachment on the Town of Yates shoreline of Lake Ontario, and

WHEREAS, Lake Ontario in is home to numerous submerged cultural resources for which New York State is responsible to protect and provide public access under the Abandoned Shipwreck Act of 1987, and construction of wind turbines will likely limit access to these historic resources for research and recreational purposes, and may pose a threat of destruction of these irreplaceable resources, and

WHEREAS, the Town of Yates Lake Ontario littoral is home to the North American Flyway, one of the most significant bird migratory routes in the western hemisphere, and

WHEREAS, no study exists that measures the environmental, quality of life or economic impact to the local residents and business owners should a large-scale industrial wind turbine emplacement of this magnitude be established, and

WHEREAS, the devastating destruction of the lake bed resulting from the massive wind turbine foundations would stir up toxic sediments which would threaten access to clean public water resources for millions of New Yorkers who receive water from the lake, and

WHEREAS, the Town of Yates and our residents support energy conservation as part of a responsible energy policy and urges the State of New York to continue to seek ways to reduce energy consumption, which could in turn reduce the need for energy generation over time, and

WHEREAS, Governor Cuomo should treat all New Yorkers equally and apply to Lake Ontario shoreline residents what he stated to Long Islanders in February 2017 when he reassured them that the proposed wind turbines would be built 30 miles offshore and that, "not even Superman standing on Montauk Point can see these wind farms," and

WHEREAS, both the Western Orleans Comprehensive Plan and the Yates, Carlton, Kendall Lake Waterfront Revitalization Program (LWRP) place significantly high emphasis on the cultivation, preservation and enhancement of the Lake Ontario littoral's rural, agricultural and leisure-based character, be it

RESOLVED by the Town Board of the Town of Yates formally and resolutely opposes any offshore, large-scale, industrial wind turbine project development off the coast of Lake Ontario in the Town of Yates, and be it further

RESOLVED, that the Town of Yates officially requests the Orleans County Legislature resolve to oppose Governor Cuomo's latest attempt to approve offshore large-scale, industrial wind turbine project development in Lake Ontario for the full shoreline length of Orleans County, and be it further

RESOLVED, that official copies of this resolution be sent to U.S. President Donald Trump, U.S. Senator Charles Schumer, U.S. Senator Kirsten Gillibrand, U.S. Representative Christopher Jacobs, Governor Andrew Cuomo, Lt Governor Kathy Hochul, NY Senate Majority Leader Andrea Stewart-Cousins, NY Senate Minority Leader Robert Ortt, NY Assembly Leader Carl Heastie, NYS Minority Leader William Barclay, NY Assemblyman Steve Hawley, Orleans County Chair Lynne Johnson, Town of Carlton Supervisor Gayle Ashbery, Town of Kendall Supervisor Tony Cammarata, and Town of Somerset Supervisor Jeff Dewart.

3. This resolution shall be enacted and in effect immediately.

Supervisor Simon explained that this was similar to what the Board passed back in 2018. The re-written version of this resolution is updated with regard to the feasibility study that was done back in June, which is sited. Another change is the WHEREAS that discusses the devastating destruction of the lake bed from massive wind turbine foundations, which is a known problem. Some references to Orleans County were removed from the new version of this resolution but the Board does call for the County to renew their opposition to large-scale industrial wind turbines. The last RESOLVED was added requesting that official copies be sent to 15 Government

Representatives. He would like a hand-written letter to be written to the President, along with the certified copy of the resolution, thanking him for the multiple times that he has called out how ugly wind turbines are and that they kill birds. He would like to ask if the President knows that there was a study done from one of the most liberal states in the union that discusses the placement of turbines in the Great Lakes. He said the word "great" should be used multiple times in the letter. He said that there are so many things wrong with this proposition that he really hopes that it doesn't happen. He said that he will follow-up with the County and request that they support this resolution.

Councilman Riggi said that the letter should also state that Lake Ontario is an international boundary. He added that they need to get the AES power lines out of the lake.

Councilman Hrovat wondered what the Canadians would think about turbines in Lake Ontario.

Councilman Riggi said that they will be much closer to our lakeshore.

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

5 Ayes 0 Nays

Motion: Carried

**RESOLUTION NO. 82-9/20**

**RESOLUTION TO ADOPT EXCESSIVE FORCE BY LAW ENFORCEMENT AGENCIES POLICY**

WHEREAS, the Town of Yates, State of New York, has made application for Community Development Block Grant (CDBG) Funds from the State of New York; and

WHEREAS, in accordance with Section 519 of Public Law 101-144, the HUD Appropriations Act requires certain statement of assurances and certifications;

BE IT RESOLVED, that pursuant to the Town of Yates being granted CDBG funds by the State; the Town of Yates, by administrative act, does adopt a statement of policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations.

Offered by Councilman _____, who moved its adoption
Seconded by Councilman _____

_____ Ayes _____ Nays

Motion: _____

The resolution was tabled as no motion was brought before the floor.

**RESOLUTION NO. 83-9/20**

**RESOLUTION TO RENEW THE TOWN OF YATES CONTRACT WITH THE LYNDONVILLE FIRE COMPANY**

THIS AGREEMENT dated as of the 8th day of September, 2020, by and between the TOWN BOARD OF THE TOWN OF YATES, ORLEANS COUNTY, NEW YORK, hereinafter designated as "TOWN", and the VILLAGE OF LYNDONVILLE, ORLEANS COUNTY, NEW YORK, hereinafter designated as "VILLAGE".

WHEREAS, there has been duly established in said Town of Yates a Fire Protection District embracing territory in the Town wholly outside of the Village of Lyndonville. Such territory is more fully described in a Resolution establishing the said district duly adopted by the Town Board of the Town of Yates on March 10, 1937, and

WHEREAS, following a public hearing duly called by the said Town Board, the Town was duly authorized to contract with the Village for fire protection to the said Fire Protection District upon terms and provisions hereinafter set forth,

NOW, THEREFORE, the Town does engage the Village to furnish fire protection to the Town of Yates Fire Protection District and the Village agrees to furnish such protection in the following manner, to wit:

1. The Fire Department of the Village shall at all times, during the period of this Agreement, be subject to all calls for attendance upon any fire, emergency medical service calls, motor vehicle accidents and/or hazardous conditions occurring in the said Fire Protection District, and when so notified by alarm or telephone call from any person therein concerning a fire or above mentioned situation therein, the said fire department will respond and attend upon the fire or situation without delay, with one or more companies and such suitable trucks, pumping and hose apparatus and ladders of the Village as may be necessary. Upon arriving at the scene of the fire or situation, the firemen of the Village attending shall proceed to extinguish the fire and/or deal with the situation for the saving of life and property in connection therewith.

2. In consideration of the furnishing of the said aid and use of its apparatus, as foresaid, the Village shall receive from the Town a sum, calculated as hereinafter provided, for each fiscal year of the Village during the term of this contract. One-half of the payment shall be due in February and the remaining one-half shall be due in April.

| Village Fiscal Year Due | One-Half Payment Due On or Before | One-Half Payment Due On or Before |
|---|---|---|
| a. 2020-2021 | February 28, 2021 | April 30, 2021 |
| b. 2021-2022 | February 28, 2022 | April 30, 2022 |
| c. 2022-2023 | February 28, 2023 | April 30, 2023 |
| d. 2023-2024 | February 28, 2024 | April 30, 2024 |
| e. 2024-2025 | February 28, 2025 | April 30, 2025 |

The Town covenants and agrees, on behalf of the said Fire Protection District, to pay the sum, calculated as hereinafter provided.

3. The Village Clerk-Treasurer shall annually during the term of the Agreement, not later than the fifteenth (15th) day of August, file with the Town Budget Officer the sum, calculated as hereinafter provided, for the payment due in the ensuing calendar year.

The sum to be paid by the Town shall be calculated as follows:

The Village fire budget shall be allocated between the Town and the Village by using the following ratios:

$$\frac{\text{Village Total Assessed Value}}{\text{Total Assessment}}$$

$$\frac{\text{Town Total Assessed Value}}{\text{Total Assessment}}$$

Village Total Assessed Value ÷ Total Assessment = Village's % × Total LFD Operating Budget = Village's Portion

Town Total Assessed Value ÷ Total Assessment = Town's % × Total LFD Operating Budget = Town's Portion

4. The parties hereto agree to form a joint Public Safety Committee comprised of two (2) Town Board members and two (2) Village Board members. The Public Safety Committee shall be charged with the planning and review of all issues relative to fire protection and ambulance services as well as other related public safety issues. The Village Fire Company shall annually develop the fire company budget and submit a recommended fire company budget to the Public Safety Committee. The Public Safety Committee shall receive and review the budget, and make any adjustments it deems appropriate. Such budget shall then be submitted to the Village Board for its review and inclusion in the Village budget. In the event of default by the Public Safety Committee, the Village Board shall use the prior year's budget plus any increased contractuals.

5. The Village shall be responsible for any and all loss or damage to fire apparatus sustained in answering such fire calls and shall be further responsible for the payment of all claims for injuries to or death of firemen in connection with the said calls in such amounts and in such manner as if the calls were duly made within the Village of Lyndonville.

6. All moneys to be paid under any provision of this Agreement shall be charged upon the taxable property of the said district and collected by the Town along with the annual Town taxes.

7. Per Village Resolution No. 96-52 - Fire Co. Savings Account - On motion of Marc Scarr, seconded by Steve McAvoy, that the Fire Co. Savings account (NYCLASS FIRE COMP) has been established for the purchase of equipment for the Fire Co. This account is controlled by the Village Board and not the Fire Co. All moneys remaining within the Fire Co. budget account after the payment of year end bills shall be transferred into this

account, for the purpose of purchasing equipment. If the Village Board does not put the unused funds from the Fire Departments budget into the NYCLASS FIRE COMP account then the correct percentage of unused money gets returned to the Town.

8. Members of the Village Fire Department, while engaged in the performance of their duties in answering, attending upon or returning from any call provided by this Agreement, shall have the same rights, privileges and immunities as if performing the same within the Village of Lyndonville.

9. This Agreement shall continue for a period of five (5) years commencing June 1, 2020 and terminating May 30, 2025.

Councilman Riggi explained that the Safety Committee first met in January to start discussing the contract and that it's basically the same as it has been with new names added.

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

Supervisor Simon said that they do a good job but the cost of operating has gone up and they're trying to build up a reserve fund to buy a new pumper so the Town will try to support them the best that they can.

Councilman Suhr said that 90% - 95% of their calls are not fire calls so the pumper that they currently have is sufficient to handle their calls. He thinks that they should consider buying a new EMS vehicle instead because that is what 95% of their calls are locally. He said that everyone keeps feeding into the idea of buying a new pumper saying that it's ok but it's not ok; he cannot condone it because we're spending tons of money. He thinks it's out of control.

Supervisor Simon said that the cycle is by the end of the month they will get another estimate of what next year's bill will be which probably will include another $20,000 toward the reserve. He said that the reserve money is far from spent. He added now that John and Harrold are engaged with this topic they can discuss with the other committee members how the reserve should be spent.

Councilman Riggi said that the Safety Committee should have some input in how the reserve money is spent. He said they're talking about a new pumper now but as time goes by they could suggest an EMS vehicle instead. He said the next meeting is scheduled for the end of the year.

Councilman Suhr said that when he looked into a new EMS vehicle before, there was money available to rural areas to buy new vehicles. He said that the problem was that they didn't have enough EMT's but that if they took the money that they would have spent on the new EMS vehicle that they could pay EMT's and this should be pushed. He added that then it would be a one-way trip; you could pick the person up and go right to the hospital. It could save money and time.

5 Ayes 0 Nays

Motion: Carried

**RESOLUTION NO. 84-9/20**

**RESOLUTION TO PAY BILLS**

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

RESOLVED to pay bills as follows:

| | |
|---|---|
| Fund A (General – Town wide) | $ 27,988.41 |
| Fund B (General – Outside Village) | $ 900.15 |
| Fund DA (Highway – Town wide) | $114,932.22 |
| Fund DB (Highway – Outside Village) | $ 17,450.93 |
| H2 (Park REDI Project) | $ 573.50 |
| Water 4- | $ 51,040.85 |
| Water 2- | $ |
| Youth- | $ |
| Fire- | $ |
| TOTAL | $ 212,886.06 |

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

5 Ayes 0 Nays

Motion: Carried

**PRIVILEGE OF THE FLOOR**

Georgette Stockman, Town of Yates, submitted a letter she received from the Orleans County Chief Administrator, Jack Welch, addressed to Lakefront and Fire Lane Residents with regard to refuse pick-up on the lakefront lanes. She asked for an update from the Board because the last information she had was that John or Harrold would be riding along on a disposal truck to determine if each lane was passable using the green-passable, yellow-possible with work, red-not passable methodology. She said that the County is looking for creative ideas and solutions and possible offers from residents for permission to use driveways or permission to create turn arounds for their trucks at the end of the lane. She explained that she had attended a meeting where Modern told her that they would be sending down smaller trucks to accommodate the lanes that didn't have much room but that has not happened. She asked what is going on and feels that residents are not getting the service that they're paying for. The gigantic bins are not working but the County isn't doing anything about it because they don't want to interrupt their contract with Modern Disposal.

Councilman Suhr asked some specific questions about her fire lane and how they have put garbage out in the past. He explained that Modern did send a smaller truck down Shadigee Lane once in a while to pick-up garbage.

Councilman Riggi said that he had spoken to Roger who said basically nothing has changed at this point and that the disposal company is trying to determine the best possible solution and that they are sending smaller trucks down some of the lanes but that the problem is they cannot back up more than 50'. He added that they hope that residents will generate a turn-around or allow the use of their driveway so the trucks can continue to provide the service.

**TOWN OFFICERS REMARKS**

Dan Wolfe, Code Enforcement Officer, said that he has written a couple of violation letters to residents on North Lyndonville Road. He said that the properties are very overgrown which is part of the reason he has left them alone; people can't see them. He sent "Letter to Remedy" notices using very strong language. He has received responses from the residents and will be working with them to fix the problem. He will placard the homes next month in the event of a fire. The homes need to be removed.

Supervisor Simon asked Dan to explain the process of getting dilapidated properties remediated.

Councilman Hrovat asked for an update on the house that burned on Roosevelt Highway.

Dan Wolfe said that with regard to the house on Roosevelt Highway, he reached out to the Town Attorney, Andrew Meier, who asked Dan to do more research on the property. He found out that a bank is holding the mortgage and that the taxes are being paid. He added that there is an heir to the estate who will not return his calls.

Trisha Laszewski, Town Assessor, said that she received a few calls with regard to STAR when the school tax bills went out but beyond that, it has been business as usual.

**ADJOURNMENT**

Moved by Councilman Riggi, whereas there is no new business to be brought before the Board, the meeting be adjourned at 7:30PM.
Seconded by Councilman Suhr

5 Ayes 0 Nays

Motion: Carried

Respectfully Submitted,
Michele L. Harling,
Yates Town Clerk