

REGULAR MEETING
AUGUST 10, 2010

A Regular Meeting of the Town Board of the Town of Somerset, County of Niagara and the State of New York was held at the Town Hall, 8700 Haight Road, Barker, New York on the 10th day of August 2010.

Present: Richard J. Meyers ----- Supervisor
Randall J. Wayner ----- Councilman
Daniel E. Engert ----- Councilman
Gary R. Alt ----- Councilman
Robin R. Jansen ----- Councilman
Rebecca A. Connolly ----- Clerk
Kenneth J. Bigelow ----- Supt. of Highway
Melvin H. Denny ----- Supt. Water/Sewer/Grounds
Arthur Herdzik ----- Counsel
Randy Roeseler ----- Engineer

Attended by: Approximately 8 residents

Supervisor Meyers called the meeting to order at 7:00PM with the Pledge to the Flag.

RESOLUTION 130-2010

APPROVAL OF MINUTES

On a motion of Councilman Alt, seconded by Councilman Jansen, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

Resolved the minutes of the previous meeting are approved as submitted.

RESOLUTION 131-2010

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

On a motion of Councilman Engert, seconded by Councilman Wayner, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

Resolved the Supervisor's Monthly report be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer's Report
Police Report and Annual Report
Dog Control Officer Report

ATTORNEY REPORT

Attorney Herdzik reported the following:

1. He has been communicating daily with the Board via email and has been working on three issues:
 - a. Wind turbine project
 - b. Electricity from Direct Energy and reviewing the contractual documents
 - c. Water Interconnection Intermunicipal agreement with the Town of Hartland, Niagara County, and the Town of Somerset
2. Submitted the prosecutor's report to the Board via email.
3. Attorney Conidi will be attending the Planning Board meeting.

Water and Sewer Quarterly Report received and filed.

WIND TURBINES

Engineer Roeseler reported that 3 bids were received and opened on July 29, 2010 for the installation of the wind turbines at the Wastewater Treatment Plant from:

<u>Name and Address of Vendor</u>	<u>Amount</u>
Niagara Wind and Solar, Inc. 7510 Porter Road Suite 4 Niagara Falls, NY 14304	\$ 145,000.00
Sustainable Energy Developments 317 Route 104 Ontario, NY 14519	\$ 173,435.00
Chase Wind Energy 515 Newark-Pompton Tpk. Suite 2 Pompton Plains, NJ 07444	\$ 147,000.00

Engineer Roeseler stated that they had reviewed the bids; he presented information regarding the awarding of the bid to the Board; and recommended the low bid be accepted.

RESOLUTION 132-2010

MAINTENANCE BOND FOR WIND TURBINES

Attorney Herdzik stated he had conferred with the lowest bidder regarding the purchase of the maintenance bond and suggested the bid document be amended as per resolution.

On a motion of Councilman Engert, seconded by Councilman Wayner, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

WHEREAS, the bid specifications previously published for the installation of wind turbines on town property contained a provision pursuant to which the successful bidder would be required to provide the town with a five year maintenance bond; and

WHEREAS, sealed bids were received and opened on July 29, 2010; and

WHEREAS, the apparent low bidder has been unable to secure the said maintenance bond in the generally accepted channels of commerce; and

WHEREAS, it is understood that the reason for the denial of a maintenance bond is that the maintenance period is too long and that the industry standard for maintenance bonds is generally at most two years; and

WHEREAS, the town wishes to move forward expeditiously with the project and resolve the long term maintenance issue in the best interests of the town.

NOW, THEREFORE BE IT RESOLVED:

1. That the Town Board of the Town of Somerset hereby retroactively amends the bid documents to indicate the deletion of the requirement of a five year (5) maintenance bond.
2. That the contract between the contractor selected to perform the work and the town shall contain a provision requiring a five thousand dollar (\$5,000) cash deposit be made with the town by the contractor to provide for the maintenance of the project for a five year period with said deposit being returned to the contractor at the end of the five year period, less such sums as may have been utilized by the Town for required maintenance costs.

RESOLUTION 133-2010

AWARD OF BID FOR WIND TURBINES

On a motion of Councilman Engert, seconded by Councilman Jansen, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

Resolved the bid for the construction and installation of wind turbines at the Wastewater Treatment Plant is awarded to Niagara Wind and Solar, Inc., 7510 Porter Road Suite 4 Niagara Falls, NY 14304 for \$145,000.00 pending the following:

1. Receipt of the executed grant agreement from NYSERDA'S (New York State Energy Research and Development Authority) RFP 10 program; and
2. Insurances and bonding be provided by Niagara Wind and Solar Inc. that will satisfy the requirements of the Town Attorney.

RESOLUTION 134-2010

UTILITY BILL CONTRACT

Councilman Engert introduced John Ludtka from PSEC (Public Service Energy Cooperative) to work on an agreement for the electric supply.

John Ludtka presented a contract to the Board with the wholesaler, Direct Energy, and supplied a comparison listing for a fixed rate versus a variable rate. He stated the 12 month variable rate is \$.06246 per Kwh and the 6 month rate is \$.063 per Kwh.

Discussion ensued regarding the pricing; the options available; the amount of potential savings; and quarterly reports that will be submitted showing the savings.

Councilman Engert asked if the farming community and small businesses will be able to receive a savings through this program.

Mr. Ludtka stated that he would be happy to sit down with them to work out an agreement.

Mr. Ludtka stated that the enrollment period will begin in September.

Attorney Herdzik stated that he had reviewed the contract and finds it acceptable.

On a motion of Councilman Engert, seconded by Councilman Wayner, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

Resolved the Town enter into an agreement with Direct Energy for the delivery and purchase of electricity for the Town Buildings for 12 months at the fixed rate of \$.06246 per Kwh.

RESOLUTION 135-2010

SNOW AND ICE CONTRACT WITH NEW YORK STATE

On a motion of Councilman Alt, seconded by Councilman Jansen, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

Resolved that Supervisor Meyers is authorized to enter into a municipal snow and ice agreement with the State of New York for the removal of snow and ice from state highways for 2012-2013.

RESOLUTION 136-2010

WATER LINE INTERCONNECTION NEGATIVE SEQR DECLARATION

Engineer Roeseler presented an Environmental Assessment form for the water line interconnection project and stated that the plans will be submitted to the Niagara County Water District.

Councilman Engert stated that he would like to reiterate that there is a huge cost savings with the Town workforces doing the work.

Engineer Roeseler stated that the cost would be double if the project went to bid.

Superintendent Denny stated that he would like to complete the project as soon as possible.

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On a motion of Councilman Engert, seconded by Councilman Alt, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

WHEREAS, the Town of Somerset has proposed the water system interconnection at Hartland Road and Town Line Road, located on Town of Hartland's property to the south of Town Line Road; and

WHEREAS, the Town board, pursuant to Part 617 of the implementing regulations pertaining to Article 8 of the Environmental Conservation Law, SEQR (State Environmental Quality Review), has determined that the action is an Unlisted Action and has completed a Short Environmental Assessment Form (EAF) to fully assess all potential impacts of the proposed action; and

WHEREAS, the Town of Somerset Town Board, in accordance with section 617.7(b) of the SEQR Law, has evaluated the EAF and thoroughly analyzed the identified relevant areas of environmental concern and has determined that the proposed action will not adversely affect the environment and/or the health, safety and welfare of the public and is consistent with social and economic consideration.

NOW, THEREFORE BE IT RESOLVED that the Town of Somerset Town Board has determined that the proposed action will not have a significant impact on the environment and, therefore, issues a Negative Declaration.

RESOLUTION 137-2010

BUDGET AMENDMENT

On a motion of Councilman Wayner, seconded by Councilman Jansen, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

Resolved the following budget amendment is approved:

DR		CR	
SW8340.4	\$1,764.00	SW8340.2	\$1,764.00

RESOLUTION 138-2010

AUDIT OF CLAIMS

On a motion of Councilman Wayner, seconded by Councilman Engert, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

Resolved the bills in the following amounts be paid:

General Fund	No. 312 through No. 349	\$ 41,849.45
Highway Fund	No. 86 through No. 97	\$ 71,102.53
Sewer Fund	No. 83 through No. 95	\$ 4,734.80
Water Fund	No. 75 through No. 86	\$ 6,327.66

RESOLUTION 139-2010

PRESSURE REDUCING VALVE AND METER FOR WATER LINE INTERCONNECTION PIT

Superintendent Denny explained once the water line interconnection construction is completed, Niagara County will take over the pit and do any necessary repairs. He stated that Niagara County has standardized parts for the pit and it is necessary to use what they require. He presented information on the pressure reducing valve that will cost \$3,632.00 and stated he had not received the price of the meter. He stated he did not know how long it would take before the parts are delivered.

On a motion of Councilman Engert, seconded by Councilman Alt, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

Resolved Superintendent Denny is authorized to make the necessary purchases to expedite the water line interconnection project, specifically the pressure reducing valve and meter.

PUBLIC COMMENT

LAKESHORE DRIVE RENTAL PROBLEM

Donald Tucker addressed the Board regarding the following:

1. Problems with properties being rented out on his road (Lakeshore Drive) short term.
2. Transient renters.
3. Renters driving through his property.
4. Concerned about property values going down.
5. The advertising of the properties on Craig's List.

Joseph Rundio addressed the Board regarding the following:

1. Properties are on 50 foot frontage with one or two bedrooms and questioned if there is not a requirement from the Niagara County Health Department about the number of people that can stay on the property because of the septic system.
2. Concerned because the area is residential.
3. Questioned if the town has a sign law as there are rental signs all over.

Sandra Rundio stated that the dogs the people are bringing with them go potty on everyone's lawn.

Deb Tucker addressed the Board regarding the following:

1. Several neighbors are upset with the conditions of the area; however, they did not attend the meeting.
2. Upon speaking with Code Enforcement Officer Hildebrant, she found out there is no noise ordinance.
3. People turning around in other people's driveways
4. Pit bulls running unleashed and they are unlicensed
5. Driving through her yard to park in the back

Discussion ensued regarding short term rentals; the laws that are on the books; who they should contact regarding complaints; rental signs; and the inconvenience of being disturbed unnecessarily.

Chief of Police Annable asked that they call the Police Department when they have these types of complaints so they can pursue them.

Supervisor Meyers and Councilman Engert asked Attorney Herdzik to research the current laws to see what options the Town has.

Attorney Herdzik stated he would check the ordinances specifically focusing on short term leasing and if there is any type of grandfathering issue.

Superintendent Bigelow stated there is a town owned turn-around for the highway trucks at the end of the road.

James Hoffman addressed the Board regarding the following:

1. Asked what the contract value of the windmills is.
2. Asked if there is a construction timeframe.
3. Asked where the unbudgeted amount of money will come from for the town's share.

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Supervisor Meyers stated the value of the contract is \$145,000.00 He stated that construction will depend on the delivery of the turbines with the actual construction time being about 2 or 3 days. Supervisor Meyers stated the money could come from the energy budget and there are other options that will not take the funds from the existing budget.

RESOLUTION 140-2010

EXECUTIVE SESSION

On a motion of Councilman Wayner, seconded by Councilman Engert, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

Resolved the Board enter into Executive Session at 8:30PM to discuss contractual and personnel matters.

RESOLUTION 141-2010

RETURN TO REGULAR SESSION

On a motion of Councilman Alt, seconded by Councilman Jansen, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
Nays 0

Resolved the Board return to Regular Session at 9:39PM.

On a motion of Councilman Wayner, seconded by Councilman Jansen, the meeting was adjourned at 9:40PM subject to the Call of the Clerk. Carried unanimously.

Rebecca A. Connolly, MMC
Town Clerk