

REGULAR MEETING
DECEMBER 9, 2008

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 9th day of December 2008.

Present: Richard J. Meyers ----- Supervisor
 Dudley E. Chaffee ----- Councilman
 April C. Gow ----- Councilman
 Randall J. Wayner ----- Councilman
 Daniel M. Engert ----- Councilman
 Rebecca A. Connolly -- Clerk
 Kenneth J. Bigelow ---- Superintendent of Highways
 Melvin H. Denny ----- Superintendent Water/Sewer/Grounds
 Edwin J. Shoemaker--- Counsel

Attended by: Approximately 25 residents and concerned citizens

Supervisor Meyers called the meeting to order at 7:30PM with the Pledge to the Flag.

RESOLUTION 157-08

APPROVAL OF MINUTES

On a motion of Councilman Gow, seconded by Councilman Chaffee, the following resolution was

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
 Nays 0

Resolved that the minutes of the Nov. 5th, 2008 meeting be approved as submitted by the Clerk.

RESOLUTION 158-08

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

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

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
 Nays 0

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

MONTHLY REPORTS received and filed:

Code Enforcement Officer's report for October and November

Code Enforcement Officer reported that the house at **8508 Lake Road** will be demolished by Mawhiney Trucking hopefully by the end of the week.

Dog Control Officer's report for October and November

Police Report for October and November

COMMUNICATIONS
RESOLUTION 159-08

JANUARY JOG 5K ROAD RACE

Clerk Connolly read a letter from Sara Budde requesting approval for the third year of the "January Jog" 5K Road Race and Fun Run in Barker.

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

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved the Town grants permission for Sara Budde to conduct the "January Jog" on January 10, 2009.

LAND DEVELOPMENT RIGHTS

Clerk Connolly provided the Town Board with a copy of a News Release from the Cornell Cooperative Extension announcing a workshop sponsored by the Western New York Land Conservancy, American Farmland Trust and the Cornell Cooperative Extension entitled Purchase of Development Rights scheduled for December 15, 2008 at the Cornell Cooperative Extension Center in Lockport.

FORMER BARKER CHEMICAL PROPERTY

Clerk Connolly read a letter from the Planning Board requesting that the Town Board pursue the cleanup of the former Barker Chemical property on West Somerset Road with Niagara County and the NYS DEC in order to make the property usable.

Supervisor Meyers stated that this came to light when J. T. Precision was looking into the site but the status of the property was not known. He stated that he has contacted DEC to get the information and that he has FOILED the NYS Dept. of Environmental Conservation for their report.

Clerk Connolly provided the Board with a copy of the final pollution report of the EPA dated December 1, 2001.

Councilman Gow stated that at the time the project was done the EPA dewatered the lagoons and disposed of it at Modern. She questioned where DEC is finding the low pH. Clerk Connolly stated that page 5 of the report states that DEC may perform additional testing to settle data gaps they may have with ground water sampling.

James Hoffman stated that he contacted the Niagara County Brownsfield Coordinator, Amy Fisk, and that the project was left open for the NYS DEC to close out. He stated DEC tested the area in 2007 and found no hazardous waste but found low pH. He stated DEC determined it was an acceptable industrial site with some precautions. He stated the precautions need to be identified. He stated that Amy Fisk would coordinate a meeting with the Town of Somerset and DEC to get to the bottom of this.

Supervisor Meyers stated that we will see what DEC says.

RESOLUTION 160-08

SMOKE ALARM/CARBON MONOXIDE DETECTOR GIVEAWAY PROGRAM

Clerk Connolly stated that she had contacted several companies regarding the purchase of smoke/fire detectors; carbon monoxide detectors and fire extinguishers. She stated that she has contacted several companies for donations to the program with AES making a donation of \$5,000 towards the purchase of the detectors. She stated there is at least another private firm that will be making a monetary donation and that more will be pursued with the companies writing the check to Dival Safety directly. She stated that she has enlisted the help of the Barker Fire Department for distribution, along with the Boy Scouts, and gave an overview of how the program will work. She stated that 1500 smoke/fire alarms with batteries need to be purchased. She requested the Board to authorize up to \$3,000 towards the program.

Connolly presented the following prices:

<u>NAME AND ADDRESS OF COMPANY</u>	<u>SMOKE/FIRE ALARM PRICES</u>
Dival Safety & Supplies 1721 Niagara St., Buffalo, NY 14207	\$ 5.06 each/ \$7,590
Grainger 50 McKesson Pkwy., Buffalo, NY 14225	\$ 10.67 each / \$16,500
Home Depot Transit Road, Lockport, NY 14094	\$ 3.27 each – not fire alarm/no battery

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

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved that Clerk Connolly is authorized to proceed with the purchase of up to \$3,000 as the Town's share for smoke/fire alarms with batteries from Dival Safety & Supplies, 1721 Niagara Street, Buffalo, NY 14207 as presented.

RESOLUTION 161-08

TOWN HALL ROOF REPAIR

Superintendent Denny stated the town hall roof is in need of repair. He stated that he had an infra-red scan done in the beginning of November to check for wet spots and that it needs to be maintained yearly. He stated that the company stated the roof was in good condition. He presented the following quotes:

<u>NAME AND ADDRESS OF COMPANY</u>	<u>PRICE</u>
Blue Ox Roofing 2139 Lockport Road, Niagara Falls, NY 14304	\$ 3,128.00
Neth & Son Inc. 146 Taylor Drive , Depew, NY 14043	\$ 4,130.00

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Roberts Roofing \$ 4,355.00
6279 Ridge Road, Lockport, NY 14094

On a motion of Councilman Gow, seconded by Councilman Chaffee, the following resolution was

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved that Supervisor Denny is authorized to proceed with the town hall roof repair from Blue Ox Roofing, 2139 Lockport Road, Niagara Falls, NY 14304 for \$ 3,128.00 as per the procurement.

RESOLUTION 162-08

WINDOWS FOR TOWN HALL

Superintendent Denny presented a procurement for replacement of 3 windows on the north side of the Town Hall for ventilation purposes:

<u>NAME AND ADDRESS OF COMPANY</u>	<u>PRICE</u>
Roberts Roofing 6279 Ridge Rd., Lockport, NY 14094	\$ 3,975.00
Twin City Glass Corp. 856 Wurlitzer Dr., N. Tonawanda, NY 14120	\$ 4,300.00
American Glass and Mirror Co., Inc. 2055 Military Rd., Niagara Falls, NY 14304	\$ 4,420.00
Ken Heitzentater, Barker, NY 14012	No bid submitted
Beckwith Builders, Barker, NY 14012	No bid submitted

On a motion of Councilman Gow, seconded by Councilman Chaffee, the following resolution was

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved that Superintendent Denny is authorized to purchase replacement windows for the Town Hall from Roberts Roofing, 6279 Ridge Rd., Lockport, NY 14094 including installation as per the procurement.

RESOLUTION 163-08

FLOOD MAPS

Supervisor Meyers stated that Code Enforcement Officer Hildebrant, Town Clerk Connolly and he attended the Flood Map meeting in Lockport.

Code Enforcement Officer Hildebrant stated that the new maps include some deletions and additions. He pointed out the additions that are of concern and explained how the Federal Emergency Management Agency (FEMA) obtained their calculations with old maps and

LIDAR mapping and that the elevations may not be accurate. He stated that there will be 90 days to appeal the map and he feels the town should appeal. He would like to have the Town Engineer take elevations to determine if FEMA is correct. He stated his concern is that the properties affected will have to pay flood insurance which is about \$1,000 extra per year.

Engineer Roeseler stated they have looked over the maps and feel that there may be some problems. He stated they would have to determine how FEMA came up with the elevations and assumptions. He would like to first see if there is a more extensive survey needed. He stated that it is a step by step process and that from start to finish through the appeal, it would be \$8,000 to \$10,000.

Extensive discussion ensued regarding the responsibility of the appeal process; the necessity of adoption of the maps; legal recourse; the property owner's responsibility; the data required to prove that the map is wrong; the unfunded mandate; areas that need to be looked at; survey data for drainage studies that may be available from Niagara County; validation of the assumptions from FEMA; and the number of properties involved.

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

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved that Wendel-Duchscherer is authorized to begin preliminary study on the flood maps up to \$3,500 with a report due for the January 13, 2009 meeting.

RESOLUTION 164-08

ANNUAL AUDIT OF DEPARTMENTS

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

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved that the Audit Committee perform the year end audits of the Town Clerk, Code Enforcement Officer, Supervisor, Justice and Tax Collector.

RESOLUTION 165-08

BUDGET AMENDMENT

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

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved that as provided in Section 107 and 115 of the Town Law, the Supervisor of the Town of Somerset is hereby authorized to expend from the unexpended balances or surplus revenues such sums as may be necessary to cover amounts by which the actual expenses incurred in 2008 in any amount exceeded the amount budgeted.

RESOLUTION 166-08

AUTHORIZE PRE-PAYMENT OF BILLS INCURRED FOR 2008

On a motion of Councilman Chaffee, seconded by Councilman Gow, the following resolution was

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved that all bills incurred for 2008 are authorized to be pre-paid.

RESOLUTION 167-08

ENCUMBRANCES

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

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved the funds for invoices of goods not received for 2008 are encumbered.

RESOLUTION 168-08

SALARIES FOR 2009

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

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved that salaries as budgeted are approved effective January 1, 2009.

RESOLUTION 169-08

APPROVAL OF KENNEL CONTRACT

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

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved the contract with Fort Hyde Kennels for kennel services for 2009 at \$4,200.00 per year is approved.

RESOLUTION 170-08

APPROVAL OF POLICE CONTRACT

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

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved the contract with the Village of Barker Police Department for 2009 at \$35,000 is approved.

SOMERSET GOVERNMENT EFFICIENCY COMMITTEE

Councilman Engert reported the Somerset Government Efficiency Committee (SGEC) consisting of Supervisor Meyers, Councilman Wayner, and he met for their first meeting on December 6, 2008 and developed a task list and a mission statement. He stated the minutes will be posted to the website soon. Councilman Engert asked Clerk Connolly to place a link on the website for the SGEC.

Clerk Connolly stated that would be no problem.

LOWER LAKE ROAD BRIDGE

Councilman Gow asked what the update is on the Lower Lake Road Bridge.

Superintendent Bigelow reported that the bridge will be kept open with weekly inspections. He stated that he sent a letter to the NYS DOT with this proposal and is awaiting a reply. He stated if there is a flood situation, the bridge will have to be closed. He stated he hoped that the construction schedule was still on track for 2009.

ELECTRONIC RECYCLING

Clerk Connolly reported that she has coordinated a Free Electronic Recycling program through the Niagara County Refuse District with the Barker Central School Junior Class, headed by Ethan Dewart. She stated that at this point it is anticipated that items will be dropped off beginning Saturdays in February. She stated the Junior Class has to approach the Board of Education on December 15, 2008 to discuss their participation. She stated more information will be forthcoming.

Supervisor Meyers stated that he has worked with Superintendent Klatt at Barker Central School and the Early Childhood Center in Newfane to study the feasibility of placing wind turbines at these sites along with a turbine at the Wastewater Treatment Plant. He stated he is working with the SED company on the project and the more people that can be involved the better. He stated these would be municipal owned wind turbines.

PUBLIC INPUT

James Hoffman stated that he looked at the 5 reports that were submitted by AES. He stated that he did not find:

1. Any evidence that DEC is on the job
2. Any evidence that the Fish Creek runoff is being monitored

He stated that he found a statement in the report that "leachate monitoring will be done by a NYS Department of Health certified laboperated by AES Creative Services, Johnson City, NY" and he feels this is a conflict of interest.

RESOLUTION 171-08

AUDIT OF CLAIMS

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

ADOPTED Ayes 5 Meyers, Chaffee, Gow, Wayner, Engert
Nays 0

Resolved that the bills be paid in the following amounts:

General Fund	No. 493 through 544	\$ 51,138.33
Highway Fund	No. 167 through 180	\$ 22,620.11
Sewer Fund	No. 131 through 142	\$ 4,311.17
Water Fund	No. 129 through 141	\$ 4,816.84

On a motion of Councilman Gow, seconded by Councilman Engert, the meeting adjourned at 8:50 PM subject to the Call of the Clerk. Carried unanimously.

Rebecca A. Connolly, MMC
Town Clerk