

REGULAR MEETING
FEBRUARY 9, 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 9th day of February 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 Highways
Melvin H. Denny ----- Supt. Water/Sewer/Grounds
Arthur Herdzik ----- Counsel

Attended by: Approximately 13 residents

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

RESOLUTION 35-2010

APPROVAL OF MINUTES

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

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

Resolved the minutes of the January 5th and January 12th, 2010 meetings are approved as submitted.

RESOLUTION 36-2010

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

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 Supervisor's Monthly report be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Police Report - Supervisor Meyers commended Sergeant Piskorowski for going above and beyond the call of duty for checking on a property when off duty.

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Code Enforcement Officer's Report – Code Enforcement Officer Hildebrant reported that NYS is requiring all municipalities to adopt a local law stating that any business containing hazardous materials or places of public assembly of more than 100 people must have an operating permit. He stated that farms are exempt. He stated that the state has provided guidelines and he is currently writing the proposed local law.

Clerk Connolly reported that she had sent to the Town Board the complaint of residents along Somerset Drive regarding the condition of the property at 9517 Somerset Drive.

Code Enforcement Officer Hildebrant stated that he has issued a March 1st, 2010 deadline for the violation on Somerset Drive to have the building completely torn down and all debris removed. He stated if it is not done by that deadline, he will issue a ticket for an appearance in court.

ATTORNEY REPORT

Attorney Herdzik reported the following:

1. Provided the Board with a confidential report from Michael Chmiel regarding prosecutor matters.
2. Submitted a report from the Planning Board Attorney regarding the appointment of the Chairmen of the Planning and Zoning Boards as being the responsibility of the Town Board.
3. Submitted a report from Attorney Conidi giving an overview of the former Barker Chemical property.

Discussion ensued regarding the fair market value of the property; the county's foreclosure responsibility; grant availability for cleaning up the property; placing the property back on the tax roll; types of business that would purchase the property; the allowed uses permitted by DEC; what is available to a prospective buyer; why the building was not taken down during the initial EPA cleanup; and what the potential cost of cleanup would be. Attorney Herdzik stated that he will have more information for the next meeting regarding what can be done with the property.

QUARTERLY WATER/SEWER report received and filed.

ANNUAL REPORTS RECEIVED AND FILED:

Town Historian
Barker Free Library
Town of Somerset Historical Society
Barker Senior Citizens
Somerset Youth Baseball Organization

COMMUNICATIONS:

RESOLUTION 37-2010

AUTHORIZATION FOR 5K RUN

Clerk Connolly read a letter from Heather Patterson of Barker Central School requesting permission to conduct a 5K run to benefit the Donate Life Program the week of March 21st, 2010.

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

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

Resolved the school is granted permission to conduct a 5K run the week of March 21st, 2010.

Clerk Connolly read a letter of resignation from Douglas Lewis resigning from the Somerset Government Efficiency Committee.

Clerk Connolly read a letter from the Teamsters Local Union No. 264 requesting recognition as the bargaining representative for all full-time and regular part-time Highway Department, Water Department and Sewer Department employees that are employed by the Town of Somerset pursuant to Section 204 of the New York State Taylor Law.

Clerk Connolly noted that the Board had received a copy of a letter from James Hoffman to Chairman of the Niagara County Legislature, William Ross, regarding the AES PILOT public hearing held on January 11, 2010.

ASSESSOR ASSISTANT

Supervisor Meyers stated that Assessor Robert Glidden prepared the job specifications for the Assessor Assistant. Councilman Jansen questioned if the position will be Civil Service. Supervisor Meyers stated he will check on that. Supervisor Meyers stated that he and Councilman Wayner will interview the five candidates who submitted resumes. Supervisor Meyers set a special meeting for February 24, 2010 at 6:00PM.

RESOLUTION 38-2010

PLANNING BOARD ALTERNATE

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 Planning Board Alternate member shall be James Trinder with the term expiring 12/31/2010.

RESOLUTION 39-2010

GASOLINE BIDS

Clerk Connolly reported two gasoline bids were picked up with one bid being submitted as follows:

<u>Name and Address of Bidder</u>	<u>Amount</u>
Drum Oil & Propane	Diesel Fuel \$2.1349
8776 Rochester Road	Firm Add On \$.1580
Gasport, NY 14067	Total \$2.2929
	Winter Blend \$2.2167
	Firm Add On \$.1580
	Total \$2.3747
	Unleaded Gas \$2.1255
	Firm Add On \$.1580
	Total \$2.2835

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 the bid for gasoline from Drum Oil & Propane, 8776 Rochester Road, Gasport, NY 14067 is approved with the option of annual renewal for 4 years as presented.

RESOLUTION 50-2010

APPOINTMENT OF CHAIRMEN FOR THE PLANNING AND ZONING BOARDS

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 that Jon Hotaling is appointed as Chairman for the Planning Board and Herbert Linderman is appointed as Chairman for the Zoning Board of Appeals.

GRANTS FOR ENERGY

Supervisor Meyers stated that he is preparing grant applications for energy through NYSERDA. He stated that he is working with two different companies and will be submitting four grants – two for wind and two for solar. He stated the company for solar is Solar Liberty and they are looking at putting solar panels on the Town Hall and Highway Department. He stated the wind grants are being written by Niagara Wind and he is writing the solar grants. He stated the Wastewater Treatment Plant does not qualify under this program.

Councilman Engert asked if this is a matching grant.

Supervisor Meyers stated it is 100% grant but you receive points if you put in a percentage of the cost.

Councilman Engert asked if he had investigated if this will cover the full costs of implementation.

Supervisor Meyers stated yes and that the formula is complicated. He stated there will be no cost to the Town unless the Board decides to spend a certain percentage.

Councilman Engert asked where the 10% cost sharing figure came from.

Supervisor Meyers stated he just threw that figure out as there is nothing in the package that tells you what percentage to use. He stated if the Town spends \$50,000, the money will be recouped through displaced power. He stated the solar system for the garage will cost \$225,000 and will over power the garage. He stated it will also provide 28% of the power for the Town Hall.

RESOLUTION 51-2010

CLIMATE SMART COMMUNITY PLEDGE

Supervisor Meyers stated that by adopting the climate smart community pledge, four additional points will be granted on the grant applications.

Councilman Wayner and Councilman Engert stated they had problems with the wording and commitment the pledge contains.

Supervisor Meyers stated that you are dealing with global warming reaction language.

Discussion ensued regarding the climate change pledge and modification to the verbiage.

Councilman Engert asked Attorney Herdzik to investigate if the pledge will tie the town.

Attorney Herdzik stated that a pledge does not commit the town.

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 that the Town of Somerset, in order to reduce greenhouse gas emission and adapt to the changing climate will:

1. Pledge to combat climate change by becoming a climate smart community.
2. Set goals, inventory emission and move to action.
3. Decrease energy demand for local government operations.
4. Encourage renewable energy for local government operations.
5. Realize benefits of recycling and other climate smart solid waste management practices.
6. Promote climate protection through community land use planning.
7. Plan for adaption to unavoidable climate change.
8. Support a green innovation economy.
9. Inform and inspire the public.
10. Commit to an evolving process.

RESOLUTION 52-2010

AUTHORIZATION FOR MEMBERSHIP TO THE CLIMATE REGISTRY

Supervisor Meyers stated the climate registry is a private organization that records the emissions output of anything in town.

Councilman Engert asked where the paper work was regarding this and if we have to move on this.

Supervisor Meyers stated if we don't, the four points will not be added to the grant application. He explained what the climate registry is and that by becoming a member, the town will pledge to inventory and record entity wide, direct or indirect, greenhouse gas emissions according to the guidance provided by the climate registry. He stated there is a \$450 fee and will add four points to the grant application.

Councilman Wayner stated that he does not want to sign a pledge to do something when we are not going to do it.

Discussion ensued regarding when the grant package was received; the membership benefits; opting out of the pledge; any penalties associated with opting out; annual cost of membership; and the grant submission deadline.

Councilman Engert questioned the billing and doesn't want to commit town money without knowing about the company.

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

DEFEATED Ayes 1 Meyers
Nays 4 Wayner, Engert, Alt, Jansen

Resolved the Town join the Climate Registry.

RESOLUTION 53-2010

AUTHORIZE COST SHARING

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 the Town commits 10% cost share for the grant applications.

RESOLUTION 54-2010

AUTHORIZATION TO SUBMIT GRANTS FOR ENERGY

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 that Supervisor Meyers is authorized to submit grants for energy, specifically two wind power grants and two solar power grants for the Highway Garage and Town Hall.

RESOLUTION 55-2010

AUTHORIZATION TO APPLY FOR A GRANT FOR A PAVER WITH THE TOWNS OF ROYALTON AND HARTLAND

Superintendent Bigelow asked for authorization to apply for a joint grant through the Local Government Efficiency Shared Services Program with the Town of Royalton and Newfane to purchase a paver. He stated the paver will be shared with each of the towns with the paver to be stored at Royalton. He stated that the town's share will be ten percent which is approximately \$7,000.00 for the purchase. He stated the grant is being written by the grant writer for Royalton and if the grant is awarded then the Highway Superintendents will meet to discuss the sharing aspects and work out the maintenance of the paver. He stated that there is already a shared services agreement between municipalities to share work that has been in effect for years. He stated that when each municipality is doing road work, they help each other with the hauling of materials and share work.

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 the Superintendent of Highways, Kenneth Bigelow, is authorized to apply for a Shared Services Grant with the Towns of Royalton and Newfane for a 10% purchase of a paver that will be shared by the three municipalities.

SEWER CHARGES

Superintendent Denny stated that sewer vents are continually being broken on certain properties and it is necessary to repair them in order to keep the ground water out of the system. He presented the Board with the breakdown of the costs to repair the vent pipes and stated the costs are being borne by all sewer district residents.

Discussion ensued regarding the actual costs of repair; if there is a need to change the code; the number of repairs and annual repair costs; the proposal to charge \$50 per repair after the first courtesy repair; and privately owned snowmobiles running over the vents and breaking the vent pipes.

Douglas Lewis stated that as a taxpayer he is tired of paying for the habitual offenders and continued abuse. He stated the real cost is the treatment of the ground water that gets into the system. He stated that the people should be responsible for taking care and protecting their vent pipe.

Superintendent Denny stated that there are 450 homes in the sewer district. He stated the real numbers to fix a vent pipe is about \$300 to \$400 if you include equipment.

Supervisor Meyers stated that the real costs should be calculated.

Councilman Engert asked Superintendent Denny to try to calculate the real costs for the next meeting so that can be justified and added into the resolution.

RESOLUTION 56-2010

WASTEWATER TREATMENT BOND PAYOFF

Supervisor Meyers stated there are two more annual payments for the bond on the Wastewater Treatment Plan at 5% interest and stated that the Town is currently earning less than 1% on the funds in the bank. He stated that he feels it would be wise to pull the money out of the unallocated sewer funds to pay the bond off early and requested permission to do so. He stated that there is approximately \$187,000 in unallocated funds in the sewer fund.

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 Supervisor Meyers is authorized to pay the bond off on the Wastewater Treatment Plant with the funds coming from the unallocated sewer fund.

RESOLUTION 57-2010

AUDIT OF CLAIMS

On a motion of Councilman Jansen, seconded by Councilman Alt, 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. 32 through No. 81	\$ 284,186.34
Highway Fund	No. 3 through No. 15	\$ 46,753.02
Sewer Fund	No. 8 through No. 18	\$ 26,402.67
Water Fund	No. 10 through No. 22	\$ 24,950.04

PUBLIC COMMENT

James Hoffman addressed the Board regarding the following:

1. Appreciates the work that has been done on the former Barker Chemical property.
2. If the payback on the grants is 1 or 2 years you should do it.
3. Questioned what the status of the PILOT is.

Supervisor Meyers stated the County has one issue and are waiting for that to get resolved.

Mr. Hoffman stated he wrote a letter to Chairman Ross outlining the steps leading up to the public hearing on the PILOT and complaining about the process used. He stated he had been in contact with Robert Freeman (Executive Director for the Committee on Open Government) regarding the lack of information available to the public prior to the public hearing. He stated that Mr. Freeman concluded the hearing was a sham and that proper procedures were not followed. Mr. Hoffman stated that the information passed out at the hearing did not include the attachments and stated to Chairman Ross that the

hearing should be held again once the PILOT is finished. He stated they (Niagara County Industrial Agency – NCIDA) did not follow the legal procedures and opens the NCIDA to Article 7 lawsuits. He asked the Board why the PILOT is such a good deal. He said if there is not a tax reduction then it is not a good deal.

Code Enforcement Officer Hildebrant addressed the Board regarding the following:

1. He will make copies of what was handed out by the state regarding operating permits and explained the law.
2. Department of Homeland Security has handed down new NIMS requirements that he will share with the Board.
3. February 22nd a new state law (Amanda's Law) goes into effect requiring all new and existing homes must have carbon monoxide detectors and must be hard wired.
4. Thanked the Water Dept. for their help with the recent apartment fire and reported the smoke detectors that alerted the people to the fire were the smoke detectors handed out by the town last year during the give away program.

RESOLUTION 58-2010

CARBON MONOXIDE DETECTOR PROGRAM

Clerk Connolly stated there are smoke detectors left and stated it was put in the last newsletter with several being picked up. She stated in the process of issuing the smoke detectors, a spread sheet was developed for every property in Somerset that indicates what each home has including carbon monoxide detectors. She stated upon review of that information 53% of the residents that were involved have only one carbon monoxide detector in their home. She stated that there are suppose to be carbon monoxide detectors on all levels of the home and in the sleeping areas. She asked permission to investigate a possible carbon monoxide detector give away program.

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 Clerk Connolly is authorized to investigate the possibility of conducting a carbon monoxide detector give away program.

RESOLUTION 59-2010

EXECUTIVE SESSION

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 Board move into Executive Session at 9:20PM to discuss potential contract negotiations.

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RESOLUTION 60-2010

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 9:58PM.

On a motion of Councilman Engert, seconded by Councilman Alt, the meeting was adjourned at 9:59PM subject to the Call of the Clerk. Carried unanimously.

Rebecca A. Connolly, MMC
Town Clerk