

SPECIAL MEETING  
FEBRUARY 11, 2008

A Special 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 11<sup>th</sup> day of February 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
	Melvin H. Denny -----	Supt of Water/Sewer/Grounds

Attended by: A few residents

Notice of said meeting sent to the Lockport Union-Sun & Journal on February 6, 2008 with same notice being posted at the Town Hall on the same day.

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

**POLICE REPORT AND REQUEST**

Chief Ross Annable presented the Town Board with a packet of information and gave an overview of what the Village of Barker Police Department is doing, where they are at, and how the department works. He explained how Niagara County is broken down into zones and how that coordinates with the placement of patrol cars from the Sheriff, State Police and local police departments. He explained that there are normally 6 to 8 cars per shift to cover the entire county with the eastern end only having 2 cars. He stated that there is no traffic enforcement on a regular basis from the Sheriff or the State Police. He explained that a small police department can provide more quality of life services and that 70% of the calls received by the Village Police for Barker are town calls, with vehicle and traffic tickets increasing from 106 tickets to 149 tickets this year. Chief Annable stated that he is currently working on the budget for the Village and that he would like to expand the department by increasing hours. He asked that the Town Board consider a \$10,000 increase in the contract when conducting their budget deliberations in 2008.

RESOLUTION 40-08

**SALARY AND TRAINING FOR CONFIDENTIAL SECRETARY**

Supervisor Meyers proposed that Melinda Austin assume the title of Confidential Secretary starting on February 12, 2008 at a salary of \$18,000 per year with Tracy Carmer being paid \$22.00 per hour to train Mrs. Austin with the training to be completed March 31, 2008.

Extensive discussion ensued regarding the position, training responsibilities, hours required for training, a need for a check list, and task identification.

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

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

Resolved that Melinda Austin is appointed Confidential Secretary effective February 12, 2008 at the annual salary of \$18,000, with Tracy Carmer being paid \$22.00 per hour for necessary training of Mrs. Austin.

**EMPIRE STATE WIND ENERGY (ESWE) HOST COMMUNITY AGREEMENT (HCA)**

Supervisor Meyers stated that Empire State Wind Energy will not sign the host community agreement with the Town without including the Article 78 clause. He stated that the Board had received an opinion from Attorney Roberson citing case law that states the Town cannot give up their right under Article 78. He stated that he had contacted the Attorney General's office and that they stated that Mr. Roberson's opinion is not a valid piece of law and will not hold up in court.

Extensive discussion ensued regarding the Article 78 clause and the Town relinquishing their right under the clause; previous meetings held with ESWE and their stated commitments; the potential loss of revenue to the town; and the need for a second opinion.

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 an Attorney be retained to review the legal opinion received regarding removal of Article 78 language from the Host Community Agreement and the advisability of relinquishing the Town's rights with such removal.

Discussion ensued regarding who would be retained to perform these services, with Board members to obtain names and Supervisor Meyers will contact the Association of Towns for recommendations.

Lyle Whitford questioned the Article 78 impact upon Lackawanna and the lost investment due to the turbines not functioning.

Supervisor Meyers stated that the company in Lackawanna is a private company and the Town does not lose revenue as they are paid a flat fee whether the turbines are functioning or not.

Norman Jansen asked the Board why not sign the contract, have the lawyers review the contract and pull out if you find it is illegal.

Supervisor Meyers stated that the Town can pull out anytime in most circumstances and if Article 78 is deemed detrimental, then the Town would pull out.

Extensive discussion ensued regarding the Right of First Refusal clause and the closure letter.

**LEGAL REPRESENTATION AND RETAINER**

Extensive discussion was held regarding the retainer proposal of that Andrews, Pusateri, Brandt, Shoemaker, & Roberson PC. Councilman Wayner stated the Audit Committee will meet with the Attorneys and act as a liaison to finalize a retainer agreement and asked that all comments and concerns be delivered to himself or Councilman Engert promptly for anticipated action at the March meeting.

**NIAGARA COUNTY WORKERS COMPENSATION CLAIMS**

Extensive discussion ensued regarding the claim of Niagara County that the Town of Somerset owes past workers compensation claims. Clerk Connolly explained the withdrawal process from the County plan in 2000 and the failure of the County to follow through with any billing upon the Town's withdrawal from the plan and presented a letter from Attorney Robert Roberson explaining the withdrawal process and the statute of limitations.

The Board directed Clerk Connolly to send a certified letter to the Niagara County Attorney Claude Joerg, requesting copies of all paid bills that the County claims the town owes for further review by the Town, with bills to be received by the Town within 30 days of the letter.

**POTENTIAL BROWNFIELDS**

Councilman Engert presented a letter from a firm that is doing a study on potential Brownfields in Niagara County with a listing of potential sites in Somerset. He wondered if Code Enforcement Officer Hildebrant had responded to the letter and will provide copies of the letter to the Board.

James Hoffman asked if the Town can pull out of the Host Community Agreement at anytime without any cost.

Supervisor Meyers stated yes.

There being no further business, on a motion of Councilman Chaffee, seconded by Councilman Wayner, the meeting adjourned at 8:55PM.

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Rebecca A. Connolly, MMC  
Town Clerk