

REGULAR AND ORGANIZATIONAL MEETING
JANUARY 13, 2009

A Regular and Organizational 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 13th day of January 2009.

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
 Robert Roberson ----- Counsel
 Randy Roeseler ----- Engineer

Attended by: Approximately 11 residents and 7 students from Barker Central School

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

RESOLUTION 1-09

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 December 9, 2008 meeting be approved as submitted by the Clerk.

RESOLUTION 2-09

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

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 the Supervisor's Monthly report be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officers Report
Dog Control Officers Report
Police Report

ANNUAL REPORTS RECEIVED AND FILED:

Town Clerk Annual Report
Code Enforcement Officer Annual Report
Town of Somerset Historical Society Annual Report
Dog Control Officer Annual Report

Fort Hyde Kennel Annual Report
Town Justice Annual Report
Barker Fire Department Annual Report

RESOLUTION 3-09

ANNUAL APPOINTMENTS

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 following appointments are approved:

The REGULAR MEETING of the Town Board shall be held on the 2nd Tuesday of each month at 7:30PM at the Somerset Town Hall, 8700 Haight Road, Barker, New York.

The OFFICIAL DEPOSITORIES for funds (all accounts) shall be:

HSBC Bank USA, 8683 Main Street, Barker, NY

M & T Bank, Lockport, NY

Bank of Akron, Akron, NY

For Investments:

Bank of America, Newfane, NY

Chase Bank, New York, NY

OFFICIAL PUBLICATION shall be Lockport Union-Sun & Journal, Lockport, NY

OFFICIAL MILEAGE shall be based on the federal rate which has been established at \$.55 per mile for 2009

DOG CONTROL OFFICER shall be Michelle Dewart

DEPUTY DOG CONTROL OFFICERS shall be Jeffrey Dewart and Mark Remington (compensation of hourly rate plus mileage when requested by DCO to assist)

ZONING BOARD OF APPEALS MEMBER shall be Frederick Leuer for a five year term expiring 12/31/2013

ZONING BOARD OF APPEALS CHAIRMAN shall be Herbert Linderman

ZONING BOARD OF APPEALS ALTERNATE shall be Kent Wakefield for a one year term expiring 12/31/2009

TOWN BOARD MEETING
JANUARY 13, 2009 Page 3

PLANNING BOARD MEMBER shall be Joseph C. Czelusta for a seven year term expiring 12/31/2015

PLANNING BOARD ALTERNATE shall be Norman Jansen for a one year term expiring 12/31/2009

PLANNING BOARD CHAIRMAN shall be Jon Hotaling

SENIOR CITIZEN DIRECTOR shall be JoAnn Greenwald

NUTRITION SITE SERVICES ASSISTANT shall be Christine Monnin

SENIOR COMMUNITY SERVICE AIDE shall be Gladys Dibble

FOREMAN for the Highway Dept. shall be Bruce Devereaux

FOREMAN for the Water/Sewer/Grounds Dept. shall be Douglas Lewis

Supervisor's Appointments:

DEPUTY SUPERVISOR – Daniel Engert
CONFIDENTIAL SECRETARY – Melinda Austin
HISTORIAN shall be Lorraine Wayner
DEPUTY HISTORIAN shall be Peter Devereaux

COMMITTEE APPOINTMENTS:

PARKS & RECREATION – Councilman Gow, Councilman Wayner & Supt. Denny

ZONING & PLANNING – Supervisor Meyers, Councilman Gow, Councilman Engert

DRAINAGE – Councilman Chaffee, Councilman Engert & Supt. Bigelow

WATER/SEWER – Councilman Gow and Councilman Chaffee

REFUSE – Councilman Chaffee & Clerk Connolly

TOURISM – Supervisor Meyers & Councilman Wayner

SENIOR CITIZENS – Supervisor Meyers and Councilman Chaffee

AUDIT – Councilman Wayner & Councilman Engert

RESOLUTION 4-09

APPROVAL OF SCHOOLING

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 schooling for Elected and Appointed Officials, Water Superintendent, Code Enforcement Officer, and Dog Control Officers when school pertains to respective jobs is duly authorized.

RESOLUTION 5-09

APPROVAL OF HISTORICAL SOCIETY CONTRACT

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 the contract with the Town of Somerset Historical Society for \$8,000.00 for 2009 is approved.

RESOLUTION 6-09

APPROVAL OF LIBRARY CONTRACT

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

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

Resolved that the contract with the Barker Free Library for \$14,500.00 for 2009 is approved.

RESOLUTION 7-09

APPROVAL OF SENIOR CITIZENS AGREEMENT

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

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

Resolved that the agreement with the Barker Senior Citizens for \$7,500.00 for 2009 is approved.

RESOLUTION 8-09

APPROVAL OF SOMERSET YOUTH BASEBALL AGREEMENT

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

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

Resolved that the agreement with the Somerset Youth Baseball League for \$6,500.00 for 2009 is approved.

RESOLUTION 9-09

APPROVAL OF AMERICAN LEGION AGREEMENT

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 agreement with the American Legion Herbert W. Carr Post #425 for providing veterans service for 2009 for \$ 1,300.00 is approved.

RESOLUTION 10-09

APPROVAL OF HIGHWAY AGREEMENT WITH VILLAGE OF BARKER

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 contract with Village of Barker for providing use of highway equipment and services for 2009 is approved.

RESOLUTION 11-09

APPROVAL OF WATER/SEWER AGREEMENT WITH VILLAGE OF BARKER

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 the contract with Village of Barker for providing use of equipment and services for repair of water lines is approved.

RESOLUTION 12-09

APPROVAL OF ENGINEERING CONTRACT

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 the contract with Wendel Duchscherer for providing engineering services for 2009 is approved.

RESOLUTION 13-09

APPROVAL OF AGREEMENT WITH NIACAP

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

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

Resolved the agreement with Niagara Community Action Program (NIACAP) is approved for \$2,000 for 2009.

RESOLUTION 14-09

APPROVAL OF OFFICIAL UNDERTAKING

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 approval of the Official Undertaking as to its form and manner of execution and the sufficiency of the insurance, as surety as prescribed by law.

TOWN OF SOMERSET
OFFICIAL UNDERTAKING OF MUNICIPAL OFFICERS

WHEREAS, _____, of the Town of Somerset, County of Niagara, New York, has been elected to the Office of Supervisor of the Town of Somerset, and

WHEREAS, _____, of the Town of Somerset, County of Niagara, New York, has been elected to the Office of Town Clerk of the Town of Somerset, and

WHEREAS, _____, of the Town of Somerset, County of Niagara, New York, has been elected to the Office of Town Tax Collector of the Town of Somerset, and

WHEREAS, _____, of the Town of Somerset, County of Niagara, New York, has been elected to the Office of Town Justice of the Town of Somerset, and

WHEREAS, _____, of the Town of Somerset, County of Niagara, New York, has been elected to the Office of Superintendent of Highways of the Town of Somerset, and

NOW, THEREFORE, we as respective officers above, do hereby undertake with the Town of Somerset that we will faithfully perform and discharge the duties of our office, and will promptly account for and pay over all moneys or property received as a Town Officer, in accordance with the law; and

This undertaking of the Town Supervisor is further conditioned upon that he will well and truly keep, pay over and account for all moneys and property, including any special district funds, belonging to the Town and coming into his hands as such Supervisor; and

This undertaking of the Town Clerk is further conditioned that she will well and truly keep, pay over and account for all moneys and property coming into her hands as such Town Clerk; and

This undertaking of the Tax Collector is further conditioned that she will well and truly keep, pay over and account for all moneys and property coming into her hands as such Tax Collector; and

This undertaking of the Town Justice is further conditioned that he will well and truly keep, pay over and account for all moneys and property coming into his hands as such Town Justice; and

The Town does and shall maintain insurance coverage, presently with ENB Insurance, in the sum of \$_____ for the Tax Collector, Supervisor and Town Clerk to indemnify against losses through the failure of the officers, clerks and employees covered thereunder faithfully to perform their duties or to account properly for all monies or property received by virtue of their positions or employment, and through fraudulent or dishonest acts committed by the officers, clerks and employees covered thereunder.

RESOLUTION 15-09

AUTHORIZE PURCHASE OF STONE, GRAVEL, ETC.

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 Superintendents of Departments are authorized to purchase stone, gravel, asphalt, gasoline, tires, etc., at state and county prices.

RESOLUTION 16-09

AUTHORIZE PURCHASES UP TO \$1,000.00

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

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

Resolved that the department heads are authorized to purchase up to \$1000.00 per item without prior Town Board approval.

RESOLUTION 17-09

AUTHORIZE TO PRE-PAY ITEMS

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 the Supervisor is authorized to prepay utility bills, contracts and postage.

RESOLUTION 18-09

DESIGNATION OF HIGHWAY FUNDS

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 that pursuant to the provisions of Section 284 of the Highway Law, monies levied and collected for the repair and improvement of highways, and received from the state for the repair and improvement of highways, \$450,852.00 shall be expended for the general repairs upon 33.42 miles of town highways, including sluices, culverts and bridges having a span of less than five feet and boardwalks or the renewals thereof.

RESOLUTION 19-09

APPROVAL OF INVESTMENT POLICY

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 upon review by the Town Board, the investment policy of the Town of Somerset is approved.

RESOLUTION 20-09

APPROVAL OF PROCUREMENT POLICY

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 upon review by the Town Board, the procurement policy of the Town of Somerset is approved.

RESOLUTION 21-09

DEVELOP A REQUEST FOR PROPOSAL FORMAT FOR LEGAL REPRESENTATION

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 the Town Board develop a Request for Proposal (RFP) document with the input of department heads for qualified law firms to act as its counsel.

Supervisor Meyers named Councilman Wayner and Councilman Engert to a committee to develop the RFP format within 2 weeks.

RESOLUTION 22-09

LEGAL SERVICES RETAINER

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 current legal services retainer be extended until the end of March 2009 with Andrews, Pusateri, Brandt, Shoemaker & Roberson, P.C.

COMMUNICATIONS

PAPER RECYCLING

Clerk Connolly reported that as of the end of November 2008, the Town has recycled 21.339 tons of paper and saved 142 cubic yards of landfill space through the use of the Green Recycling Bins.

FLOOD PLAIN MAPS REVIEW REPORT

Clerk Connolly stated a Preliminary Flood Plain Review report has been submitted by Wendel Duchscherer. Engineer Roeseler stated they took a look at the information that was used by U.S. Federal Emergency Management Agency (FEMA) to develop the new flood plain maps. He stated that their findings show some areas on West Somerset Road along Golden Hill Creek appear to have errors and he suggested that a letter protesting the redelineated flood plain boundaries be filed with FEMA.

Clerk Connolly reported that an open house regarding the mapping will be held on February 2, 2009 at the Public Training Facility in Lockport from 4:00 – 8:00PM.

Extensive discussion ensued regarding the mapping and notification of the property owners in the affected areas.

Engineer Roeseler stated that he will craft a letter to the property owners.

AES SPDES PERMIT MODIFICATION/RENEWAL

Clerk Connolly reported that a letter has been received from the NYS Department of Environmental Conservation regarding an updated version of the modified SPDES permit for AES Somerset Generating Facility.

ATTORNEY SHOEMAKER

Clerk Connolly read a letter from Edwin J. Shoemaker stating that he is taking a personal leave of absence from the firm of Andrews, Pusateri, Brandt, Shoemaker & Roberson, P.C. for an indefinite period of time.

RESOLUTION 23-09

AUDIT REPORT

Councilman Engert reported that Councilman Wayner and he audited the departments on January 6, 2009 and found everything in order.

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 that the recommendation of Councilman Engert be accepted as follows:

The criminal and civil dockets of the Town Justice for 2008 having been duly examined with the monthly cash summary being viewed and the fines and fees have been turned over to the proper officials; that the records of the Code Enforcement Officer for 2008 having been duly examined and turned over to the proper officials; that the records of the Town Clerk for 2008 having been duly examined and found all fees have been turned over to the proper officials; that the records of the Tax Collector for 2008 having been duly examined and found all fees have been turned over to the proper officials; and the records of the Supervisor for 2008 having been duly examined with all monies disbursed properly.

FORMER BARKER CHEMICAL PROPERTY

Supervisor Meyers reported that a representative from NYS DEC will be at the Town Hall on Thursday, January 15, 2009 at 6:30PM to report on the status of the former Barker Chemical site located at 8463 West Somerset Road. The Board requested Engineer Roeseler to attend the meeting.

ELECTRONIC RECYCLING PROGRAM

Clerk Connolly reported that she has been working with Ethan Dewart, a Junior from Barker Central School, who is coordinating the Junior class to conduct the electronic recycling program. She stated that the Free Electronic Recycling program will take place at the Wastewater Treatment Plant on Saturdays, February 28th, March 7th and March 14th. She stated that arrangements will be made for anyone who needs to have their items picked up.

SMOKE DETECTOR PROGRAM

Clerk Connolly reported that the smoke detectors have been ordered and will be delivered in the near future. She stated that she is working with Chief Randy Hildebrant from the Barker Fire Department to coordinate the logistics of the giveaway program.

RESOLUTION 24-09

GASOLINE BIDS

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 bids be solicited for gasoline and diesel fuel with bids to be received and opened on February 6, 2009 at 11:00AM.

RESOLUTION 25-09

DELEGATE TO ASSOCIATION OF TOWNS MEETING

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 Clerk Connolly be appointed delegate for the Association of Towns meeting, with Councilman Engert as alternate.

Clerk Connolly noted that the proposed resolutions were given to the Board in their packets.

RESOLUTION 26-09

MEDICAL INSURANCE PLAN

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 Town of Somerset offer Community Blue as the health insurance for active and retired employees and to retain Brokerage Concepts Inc. as the agent to implement the Health Reimbursement Accounts (HRA) with the Town putting the deductible into the HRA for the active employees.

RESOLUTION 27-09

RECORDS MANAGEMENT GRANT

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 the Records Management Officer, Rebecca Connolly, is authorized to apply for a Records Management Grant for an automated water meter reading system.

Superintendent Denny reported that 86 meters have been installed to date.

DOG ORDINANCE

Councilman Wayner asked that the Board investigate dog ordinances from other municipalities and evaluate the current ordinance. He stated that our ordinance may not be a strong enough ordinance for enforcement purposes and cases of continued violations.

Clerk Connolly noted that the continued violations of impoundment should also be addressed and that the dog ordinance has not been updated since 1985.

Councilman Engert stated that perhaps the definition of kennel can be addressed in the ordinance.

Code Enforcement Officer Hildebrant stated that the code does not adequately address the definition of home occupation or noise of dogs.

The Board asked Clerk Connolly to obtain some sample ordinances.

RESOLUTION 28-09

ABSTRACT 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:

2008 General Fund	No. 545 through 566	\$ 19,334.20
2008 Sewer Fund	No. 143 through 151	\$ 1,007.66
2008 Water Fund	No. 142 through 146	\$ 3,621.76

General Fund	No. 1 through 33	\$ 30,449.95
Highway Fund	No. 1 through 15	\$ 50,743.66
Sewer Fund	No. 1 through 7	\$ 30,649.51
Water Fund	No. 1 through 6	\$ 4,446.30

PUBLIC COMMENT

James Hoffman addressed the Board regarding the following issues:

1. Thanked Ken Bigelow for the great job that he is doing as a working Highway Superintendent. He stated that you don't often see a Supervisor behind the wheel of a truck.
2. He presented the Board with a newspaper article regarding a coal burning plant in Tennessee and the move to identify all coal fired generating plants as toxic.

Supervisor Meyers thanked both the Highway Dept. and the Grounds Dept. for the great job they have done with the roads and the parking lots.

RESOLUTION 29-09

EXECUTIVE SESSION

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 the Town Board enter into Executive Session at 9:15PM to discuss the employment of a particular person.

RESOLUTION 30-09

RETURN TO REGULAR SESSION

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

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

Resolved the Town Board return to regular session at 9:27PM.

RESOLUTION 31-09

GRANTING OF UNPAID LEAVE OF ABSENCE

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 an unpaid leave of absence is granted to Jonathan Dewart for a maximum of fifteen (15) days for 2009.

On a motion of Councilman Gow, seconded by Councilman Chaffee, the meeting adjourned at 9:28 PM subject to the Call of the Clerk. Carried unanimously.

Rebecca A. Connolly, MMC
Town Clerk