

REGULAR MEETING
JULY 14, 2009

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 14th day of July 2009.

Present:	Richard J. Meyers -----	Supervisor
	Dudley E. Chaffee -----	Councilman
	April C. Gow -----	Councilman
	Randall J. Wayner -----	Councilman
	Daniel E. Engert-----	Councilman
	Rebecca A. Connolly --	Clerk
	Kenneth J. Bigelow-----	Supt. of Highways
	Melvin H. Denny -----	Supt. Water/Sewer/Grounds
	Thomas Kawalek -----	Counsel
	Randy Roeseler -----	Engineer

Attended by: Approximately 4 residents

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

RESOLUTION 93-09

APPROVAL OF MINUTES

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 minutes of the June 9th and June 18th, 2009 meetings be approved as submitted.

RESOLUTION 94-09

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

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 the Supervisor's Monthly report be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

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

ATTORNEY REPORT

Attorney Kawalek reported on the settlement with Barker Storage stating that steps are being taken to recoup approximately \$4,000 from Niagara County for penalties that were paid to the county.

Supervisor Meyers stated the fees are close to \$5,000 and he is anticipating that the County will pay that portion of the judgment.

COMMUNICATIONS

RESIGNATION FROM PLANNING BOARD

Clerk Connolly reported that a resignation letter has been received from Robert Schian Jr. from the Planning Board effective immediately.

FLOOD MAPS

Clerk Connolly read a letter from the Federal Emergency Management Agency stating that the concerns of the Town will be taken under consideration.

RESOLUTION 95-09

HAIGHT ROAD SPEED ZONE REQUEST

Clerk Connolly read a letter from Sheila Stoll, 8463 Haight Road, requesting the speed limit on Haight Road be lowered for the remainder of Haight Road between Quaker Road (Route 148) and Hartland Road.

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 the Town submit a request to Niagara County and New York State Department of Transportation to conduct a speed limit study for a lower speed limit on Haight Road.

PROPOSED SUBDIVISION REGULATIONS

Clerk Connolly read a letter from the Planning Board requesting the Town Board to consider the proposed subdivision regulations and to hold a public hearing regarding the proposed regulations.

INTERNET AND BROADBAND STUDY

Clerk Connolly stated information has been received regarding expanding access to broadband for rural areas under the Broadband Technologies Opportunities Program. Discussion ensued regarding the current cable franchise agreement and the amount of homes needed to expand; seminar regarding funding streams; shovel ready projects; and information that may be relevant to expand cable abilities to non-serviced areas.

TOWN WIDE YARD SALE

Clerk Connolly reminded the Board the Town Wide Yard Sale will be held on August 1, 2009.

RESOLUTION 96-09

TRAILER MOUNT SEWER CLEANER

Superintendent Denny updated the Board stating that bids were not advertised for July due to some problems with the proposed equipment. He stated that bids will be opened on August 6, 2009 for the trailer mount sewer cleaner. He stated he is currently working on the specifications.

LOWER LAKE ROAD BRIDGE

Superintendent Bigelow stated the case for additional funding for the Lower Lake Road Bridge was denied as the accident records did not justify extra expense for changes. He recommends the Town proceed with Alternative 1, stating the structure will be big enough and that it has been alright for the past 55 years.

RESOLUTION 97-09

PROPOSED LOCAL LAW- SUBDIVISION REGULATIONS

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

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

Resolved that a proposed local law to repeal current Subdivision Regulations and replace with new Subdivision Regulations as proposed by the Planning Board is introduced with a public hearing to be held on August 11, 2009 at 7:30PM.

RESOLUTION 98-09

AGREEMENT WITH ARROW APPRAISAL

Supervisor Meyers presented an agreement from Arrow Appraisal for appraisal services. He stated the cost is going to be shared 50/50 with Niagara County.

Councilman Gow asked that a written agreement be obtained from the County stating their commitment to share the cost of the appraisal services.

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 Supervisor Meyers is authorized to execute a contract to retain the services of Arrow Appraisals for services to complete an appraisal of the AES Somerset Power Plant.

RESOLUTION 99-09

AMENDMENT TO CHANGE ESTIMATED EXPENDITURE FOR SNOW & ICE AGREEMENT

Clerk Connolly reported a resolution has to be passed by the Board to accept the increased monies paid by New York State due to the severity of the winter.

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 Supervisor Meyers is authorized to sign the amendment to change the estimated expenditure for the snow and ice agreement with the State of New York due to the severity of the winter during 2008/2009.

RESOLUTION 100-09

RENEWAL OF SNOW & ICE AGREEMENT WITH NYS

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 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 2011-2012.

RESOLUTION 101-09

TRACTOR/MOWER FOR HIGHWAY DEPARTMENT

Superintendent Bigelow presented a request to purchase a New Holland tractor with a side mount Alamo Hydraulic 60" Versa Flail Mower on state bid for \$59,600.00 to replace a 1997 Ford tractor with a side mount mower as budgeted. He also presented a quote that he obtained from Milton Cat for \$65,969.00.

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 a New Holland T5050 4 Wheel Drive Tractor with a Side Mount Alamo Hydraulic 60" Versa Flail Mower be purchased from Buffalo Tractor and Implement Co., Inc., 3045 Seneca Street, Buffalo, NY 14224 under NYS Contract Group #40601, Award #20365 for \$59,600.00.

RESOLUTION 102-09

SELL OLD TRACTOR/MOWER AT AUCTION

Superintendent Bigelow requested permission to send the old tractor/mower to auction. He stated that he will investigate to see which auction (fall or spring) will bring more money for the tractor/mower.

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 Superintendent Bigelow is authorized to sell the used tractor/mower at auction.

RESOLUTION 103-09

TOWN HALL PARKING LOT RESURFACING

Superintendent Denny requested permission to solicit bids for the resurfacing of the Town Hall parking lot.

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 Superintendent Denny is authorized to obtain bids for resurfacing of the Town Hall parking lot with bids to be opened on August 10, 2009 at 11:00 AM.

RESOLUTION 104-09

COLLATERAL SOURCE

Clerk Connolly stated that all Board members were notified of pending legislation regarding collateral source claims. Discussion ensued regarding unfair double recoveries against public employees.

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

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

WHEREAS, under current state law, public employees hurt on the job are paid twice, both times out of the taxpayers pocket for the same lost future earnings; and

WHEREAS, there is a bill introduced in the Legislature S.6004/A7504-B which, in addition to ending the unfair double recoveries against public employers, it removes an impediment to the settlement of tort actions; and

WHEREAS, the bill would protect all parties in the lawsuit (including public defendants) who settle the case from then being subjected to a claim by a health benefit provider or other collateral source payor for reimbursement of monies paid to the plaintiff – unless there is a statutory right to such reimbursement, thereby encouraging settlements;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Somerset supports this bill and urges our lawmakers to vote this into law; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to Governor David Paterson; New York State Senate Majority Leader Malcolm Smith; New York State Assembly Speaker Sheldon Silver; Senator George Maziarz and Assemblyman Steve Hawley.

BATTING CAGES

Councilman Engert asked the status of the batting cages. Superintendent Denny stated the project is proceeding.

RESOLUTION 105-09

AUDIT OF CLAIMS

Councilman Wayner questioned an entry on Claim 264-Chelus, Herzik, et al. Attorney Kawalek stated that entry would be included in the retainer. Discussion ensued regarding emails and billing.

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 minus \$60.00 for claim #264:

General Fund	No. 253 through 294	\$45,614.68
Highway Fund	No. 81 through 97	\$13,053.37
Sewer Fund	No. 72 through 86	\$23,782.46
Water Fund	No. 77 through 84	\$33,625.26

RESOLUTION 106-09

PLANNING BOARD ADVERTISEMENT

Councilman Engert stated that he would like to advertise the position for Planning Board.

Supervisor Meyers stated he would like action postponed until the next meeting as he would like to study the possible reduction of the Board from 7 members to 5 members.

Discussion ensued regarding the possibility of reduction of the Board with consensus that the Somerset Government Efficiency Committee will look into the reduction of the Planning Board.

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 Clerk advertise for a Planning Board position requesting resumes be submitted by August 10, 2009.

RESOLUTION 107-09

PLANNING BOARD APPOINTMENT

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 Norman Jansen be appointed to the Planning Board as a full member to fill the unexpired term of Robert Schian with the term expiring December 31, 2009.

PUBLIC INPUT

Randy Hildebrant, reported:

1. He will be working on the NIMS update with Niagara County.
2. Dave Wilkins from NYS Office of Real Property Services is in town doing the 3 year update and stated that the data collection done by the assessors looks good.
3. He would like the Board to include the Assessor in the discussions with AES regarding any assessed valuation. He stated the Assessors have been included in the past with the discussions with the Attorneys.

James Hoffman addressed the Board regarding the following:

1. He would like a report on the Somerset Government Efficiency Committee. Supervisor Meyers stated that all minutes are placed on the website.
2. Questioned the status of the Barker Chemical property. Councilman Engert stated that it has been assigned to the County Attorney's office with a letter sent by Legislator John Syracuse to enact foreclosure. He stated he will follow-up with Legislator Syracuse.

On a motion of Councilman Gow, seconded by Councilman Engert, the meeting was adjourned at 8:40PM subject to the Call of the Clerk. Carried unanimously.

Rebecca A. Connolly, MMC
Town Clerk