

REGULAR MEETING
JUNE 12, 2007

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 12th day of June 2007.

Present: Richard J. Meyers ----- Supervisor
 Richard N. Ray Jr. ----- Councilman
 Dudley E. Chaffee ----- Councilman
 April C. Gow ----- Councilman
 Randall J. Wayner ----- Councilman
 Rebecca A. Connolly --- Clerk
 Kenneth J. Bigelow ---- Superintendent of Highways
 Melvin H. Denny ----- Supt. of Water/Sewer/Grounds
 Edwin J. Shoemaker --- Counsel
 Randy D. Roeseler ---- Engineer

Attended by: Approximately 25 people

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

RESOLUTION 67-07

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the May 7th and 8th, 2007 meetings be approved as submitted by the Clerk.

RESOLUTION 68-07

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

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

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

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

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer's report

CEO Hildebrant reported that several properties have been notified of the Property Maintenance Law. He stated the property that has been abandoned on Quaker Road will be mowed with the bill going to the property owner.

CEO Hildebrant also stated that he has had a conversation with the property owner where the bioremediation project is taking place on Lake

Road. He stated that the owner said that DEC has released the property and that the property will be graded. He stated that he will obtain a copy of the release from the property owner.

Police Report
Dog Control Report

ANNUAL REPORT RECEIVED AND FILED:
Barker Police Department

COMMUNICATIONS

RESOLUTION 69-07

JUSTICE AUDIT

Clerk Connolly noted that she had delivered the audit of the Justice Court by the Office of the State Comptroller at the last meeting and asked for comments.

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

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

Resolved that the in accordance with Section 35 of the General Municipal Law, the Town board adopt a plan that will verify that the Justice is preparing the necessary accountabilities by having the monthly analysis of the Court liabilities and reconciliation attached to the Court Monthly Report, along with the accountabilities to be verified during the annual audit of the Justice Department.

RESOLUTION 70-07

POLICE DEPARTMENT REQUEST FOR \$2,000

Clerk Connolly read a request for the Village of Barker Police Department for an additional \$2,000 to equip a second car.

Chief Ross Annable stated that an unmarked car has been purchased and the request is for lights and the initial start up costs. He stated that he is trying to keep miles off of the new police car and will be available as additional backup.

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

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

Resolved that the request of \$2,000 for the Village of Barker Police Department is granted.

RESOLUTION 71-07

WEST SOMERSET/HOSMER ROAD INTERSECTION

Clerk Connolly read a letter from Frank Thomas Croisdale, 1881 West Somerset Road, Appleton, stating his concern over the speeding vehicles at the above named intersection and his concern for the safety of the children of the hamlet.

Discussion ensued regarding the safety problem.

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

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

Resolved that Niagara County be sent a request to study the feasibility of making the intersection of West Somerset/Hosmer Roads a 4 way stop intersection and that the Niagara County Sheriff and the Barker Police Department be asked to increase patrols of the area.

NIAGARA COUNTY BICENTENNIAL BANNERS

Clerk Connolly reported that she has received information regarding purchasing Niagara County Bicentennial Banners to be hung in the town for \$200 each. She stated that she will give the information to the Board for consideration at the next meeting.

QUAKER ROAD SPEED LIMIT (South of the Village Line)

Clerk Connolly stated that she has received communication from New York State Department of Transportation that they will review the matter of the speed limit request south of the Village of Barker.

RESOLUTION 72-07

2010 CENSUS

Clerk Connolly stated that she has meetings regarding the 2010 census. She stated that if the Town does not participate in a parcel count, they are not able to contest the population count once it has been established. She asked the Board to adopt a resolution authorizing the Clerk to partake in the 2010 census studies.

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

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

Resolved that Clerk Connolly is authorized to participate in the 2010 census studies.

LAKE ONTARIO COASTAL INITIATIVE

Steven Lewandowski gave an overview of the Lake Ontario Coastal Initiative stating that the organization was formed to study the quality of Lake Ontario water. He stated that the ban on phosphorus has helped to clean up open waters but has done little for the conditions along the shoreline. He stated that phosphorus has a major impact on the algae growth and rooted aquatic plants. He stated that the organization has received funding from the federal and state government in the past to fund grants for the studies.

Extensive discussion ensued regarding the studies, other Great Lake studies, the Finger Lakes, work with soil and water districts, point of source, and nutrient levels.

TRAVEL BAN POLICY

Supervisor Meyers stated he has discussed with several Supervisors' about travel bans, that they have the same procedure that was used in February and stated that the Highway Superintendent was not conferred with when a ban has been declared. Superintendent Bigelow asked how travel bans have been declared. Supervisor Meyers stated that he talked to Newfane and they have had a travel ban. He stated that he will write up a policy and confer with Superintendent Bigelow.

WIND ENERGY

Supervisor Meyers stated that the Board members and Attorney had received a packet from Empire State Wind Energy including a confidential Host Community Agreement. He stated that Mr. Pitman has suggested a committee to be the liaison. After discussion, June 19th was a deadline established for all comments and questions regarding the agreement that the Board members may have to be received by Supervisor Meyers. Supervisor Meyers stated that he will compile the comments/questions and confer with Mr. Pitman. Supervisor Meyers set June 27, 2007 at 7:00PM for a work session to discuss the agreement.

UPDATES ON LAWSUITS

Attorney Shoemaker gave an update on the pending lawsuits stating that everything is on hold at the present time.

1. He stated that the assessment lawsuits are being held by the Judge.
2. He stated there will be a hearing by the Public Service Commission on June 21, 2007 in Albany regarding the landfill lawsuit. He stated that an agreement was reached and filed last July between AES, DEC and the Town. He stated that 2 Administrative Law Judges met and confirmed the agreement and recommended stronger language to the Siting Board for compliance with DEC regulations.
3. He stated that the PILOT hearing began on June 11, 2007 in front of Judge Klock and is ongoing. He stated that he anticipates a decision on the matter in August.

Councilman Wayner stated that he appreciates the law firm's efforts in expediting the hearing on the PILOT via letters that have been sent.

Supervisor Meyers stated that he will be attending the June 21st hearing in Albany.

RESOLUTION 73-07

SALT BUILDING ROOF

Superintendent Bigelow stated that one bid was received with 3 vendors being notified of the salt building roof project. He stated that Roberts Roofing & Siding Co., Inc., 6279 Ridge Road, Lockport, New York 14094, submitted a bid of \$16,550.00.

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

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

Resolved that the bid of Roberts Roofing & Siding Co., Inc., 6279 Ridge Road, Lockport, New York 14094 to roof the salt building for \$16,550.00 be accepted as per the specifications.

RESOLUTION 74-07

SERVICE CONNECTION FOR WATER

Superintendent Denny presented information regarding a proposed change in the Code for the installation of water lines. Superintendent Denny noted that the cost of copper is \$3.73/ft. and plastic is \$.22/ft.

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

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

Resolved that a public hearing be held on July 10, 2007 at 7:30PM to hear and consider proposed Local Law 1-2007 amending the Code of the Town of Somerset regarding service pipe for water lines.

LIONS CLUB 60TH ANNIVERSARY

Clerk Connolly noted that the Lions Club will be celebrating their 60th Anniversary of serving the community on June 16th at the Barker Fire Hall.

RESOLUTION 75-07

FENCE MATERIALS FOR THE PARK

Superintendent Denny presented a procurement for materials for fencing of the new ball diamond in the park as follows:

<u>NAME AND ADDRESS OF VENDOR</u>	<u>AMOUNT</u>
City Fence, Inc. P.O. Box 346, 3893 Walden Ave., Buffalo, NY 14086	\$ 5,887.00
Fox Fences 2637 Lockport Road, Niagara Falls, NY 14305	\$ 6,166.01
Classic Fence & Lumber Co., Inc. 3030 Niagara Falls Blvd, Amherst, NY 14228	\$ 8,460.94

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

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

Resolved that the fence for the new ball diamond be purchased from City Fence, Inc., P.O. Box 346, 3893 Walden Ave., Buffalo, NY 14086 for \$5,887.00 as per the procurement.

RESOLUTION 76-07

SEWER REPAIR RESERVE FUND

Superintendent Denny asked permission for a public hearing to withdraw \$10,000 from the Sewer Repair Reserve Fund for additional fencing materials at the Wastewater Treatment Plant.

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

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

Resolved that a public hearing be held on July 10, 2007 at 7:30PM to hear and consider comments regarding withdrawing \$10,000.00 from the Sewer Repair Reserve Fund for fencing at the Wastewater Treatment Plant.

RESOLUTION 77-07

TRUCK FOR WATER DEPARTMENT

Superintendent Denny asked permission to purchase a new 2008 Ford Super Duty XL F-250 Pickup Truck on State Contract for \$ 22,327.00 as budgeted.

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

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

Resolved that Superintendent Denny is authorized to purchase a new 2008 Ford Super Duty XL F-250 Pickup Truck on State Contract Group 40560, Item 20 for \$22,327.00.

RESOLUTION 78-07

USED TRUCK

Superintendent Denny reported that the 1995 Chevy Pickup truck that will be replaced has a blown engine. He presented options of fixing the truck to sell at auction or offer the truck for sale "as is".

Discussion ensued regarding the expenditure to fix the truck to sell at auction and the return on the dollars spent.

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

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

Resolved that the 1995 Chevy Pickup Truck be offered for bid "as is" with a minimum bid of \$ 800.00, with bids being opened on July 9th, 2007 at 11:00AM at the Town Clerks office.

RESOLUTION 79-07

PLOW FOR TRUCK

Superintendent Denny presented a procurement for an 8' Boss Super Duty snow plow for the new truck from:

<u>NAME AND ADDRESS OF VENDOR</u>	<u>AMOUNT</u>
Barker Truck Accessories 1669 Quaker Road, Barker, NY 14012	\$ 3,800.00

NYS Contract 40560 (Options) \$ 3,820.00

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

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

Resolved that an 8' Boss Super Duty snow plow be purchased from Barker Truck Accessories, 1669 Quaker Road, Barker, NY 14012 for \$3,800.00.

RESOLUTION 80-07

PROMOTE SOMERSET

Councilman Wayner stated that he had been contacted by Jon Hotaling and Erin Cummings Hotaling regarding ways to promote Somerset. Councilman Wayner stated that Mrs. Hotaling is a real estate sales person.

Erin Cummings Hotaling stated there are currently 42 houses for sale in Somerset and that the bad publicity regarding AES and the possibility of increased taxes has hurt sales in Somerset. She stated that they would like to put something together like the Lockport School District did that would point out the positive reasons why a person would like to locate in Somerset.

Discussion ensued regarding the publication, sharing the publicity tool with realtors, selling our community, school district, civic organizations, etc.

Councilman Wayner suggested that a committee be formed to develop the publication. He stated that he would be happy to Chair the committee but as a point of full disclosure pointed out to the Board that Erin Cummings Hotaling is his niece and would not want anyone to think there is impropriety happening if she by chance sells a house.

Councilman Ray stated that the information would be promoting Somerset and shared with all realtors.

Jon Hotaling stated that he would be happy to sit on the committee.

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

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

Resolved that Councilman Wayner is appointed to chair a committee of volunteers to promote Somerset.

VETERAN'S BOOK

Supervisor Meyers stated that the Historian had presented all the Board members with a Veteran's Book that shows where all the veterans' memorials are in Niagara County. Clerk Connolly stated that copies of the book are available at the Town Hall at no charge.

Supervisor Meyers thanked Superintendent Denny and his crew for the tremendous job in the Town Park and Veteran's Memorial.

RESOLUTION 81-07

ENERGY AUDIT

Councilman Ray presented information regarding an energy audit of town facilities. He stated that an audit would be performed by Energy Services Providers Inc. and a NYSERDA contractor of all buildings for a cost of \$400. He stated that a detailed plan of recommendations for improvements for cost savings will be prepared by the NYSERDA contractor and if one of the recommended measures is implemented that is equal to or higher than the fee, then the fee is returned.

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

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

Resolved that \$400 be expended for a NYSERDA contractor to perform an energy audit of the town buildings.

RESOLUTION 82-07

ARTICLE X OF PUBLIC SERVICE LAW

Councilman Gow stated that Article X of the NYS Public Service Law expired and there is movement on renewing that article. She stated that included in the Article is a proposal to supercede any local control over wind farms. She presented a resolution and asked the Board to consider adoption.

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

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

WHEREAS, Article X of the Public Service Law provides a streamlined siting permit procedure for certain power generation facilities and the law expired December 31, 2002; and

WHEREAS, since January 1, 2003 power generation facilities have been sited via local zoning and state DEC review; and

WHEREAS, there is currently a proposal by Governor Spitzer before the Legislature to renew and revise Article X of the Public Service Law that would also include the siting of windmills; and

WHEREAS, this inclusion essentially eliminates local zoning control over windmills and has an impact on community host payments; and

WHEREAS, the Town of Somerset, along with numerous municipalities throughout New York State, has undergone considerable time and expense to develop and implement windmill siting policies that best fits our community;

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Somerset is opposed to any inclusion of the siting of windmills in Article X of the Public Service Law as it removes local control of our landscape and violates the principles of Home Rule that has been the guiding force of our state; and

IT IS FURTHER RESOLVED that the Town Board of the Town of Somerset encourages any revision of Article X to address health and environmental issues for those who live and work near power generation facilities; and

BE IT FURTHER RESOLVED that the Town Clerk forward copies of this resolution to Governor Eliot Spitzer and elected officials.

RESOLUTION 83-07

LIONS CLUB PROCLAMATION

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

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

Resolved that Clerk Connolly prepare a proclamation for the Lions Club in honor of their 60th Anniversary.

200th ANNIVERSARY OF NIAGARA COUNTY – BARN PAINTING

Councilman Gow stated that as part of the 200th Anniversary of Niagara County, 12 barns have been picked throughout the County to display the 200th Anniversary Logo. She stated that Maple View Farms on West Somerset Road, owned by Art and John Sweeney, was the choice of the committee for Somerset. She stated that this barn was the first painted in Niagara County.

Congratulations were offered to John Sweeney and his family on this honor.

PUBLIC FORUM

Historian Lorraine Wayner applauded Erin and Jon Hotaling for their pursuit of tourism in Somerset. She offered to help the “Promote Somerset” committee.

Roy Plummer commended the Town Board in regards to sticking to their position regarding AES and the Niagara County IDA PILOT issue. He stated that he and his wife feel that it is money well spent.

James Hoffman addressed the Board on three issues:

1. He would like to see the Town wide Yard Sale again this year.
2. Soda ash is being injected into the stack at AES to clean up the emission.
3. Asked for a report on the meeting with AES.

Councilman Chaffee stated that he attended a meeting with Supervisor Meyers at AES and that no new developments were discussed. He stated they discussed the possibility of a second plant, wind farms and the number of wind farms they have around the world and Texas, the possibility of an Open House, the amount of carbon dioxide that is produced at the plant and what will be produced at the ethanol plant in Shelby.

Supervisor Meyers stated that no meeting was scheduled for this month and that he will notify the Board when there is another meeting.

Roy Plummer suggested the Board Members obtain the Cornell study on Nine Mile Point and read it.

John Sweeney questioned Supervisor Meyers and addressed the Board on several issues:

1. If the Supervisor was NIMS compliant.
2. Supervisor's attendance at Eastern Niagara Power Alliance meetings.
3. Supervisor's attendance at monthly Supervisor and Water District meetings.
4. Supervisor's attendance at Niagara Solid Waste Management Consortium meetings.
5. Asked if the Supervisor received the 3% pay increase that was budgeted.
6. Thanked the Attorney and the Board for representing the taxpayers.

Supervisor Meyers stated that he was not NIMS compliant and that he has not attended the meetings as it conflicts with his schedule. He stated that he assumes that he received the increase as he receives a paycheck from the Town.

Merrill Bender addressed the Board on several issues:

1. Supervisor to report on any meetings that he attends during the month, including any that he has had with AES that the Town Board has not been invited to.
2. Thanked the Attorney for pursuing the lawsuits.
3. Stated his displeasure with the way the school has been bad mouthed.
4. Stated his disappointment that AES would file a grievance on their 2007 assessment.

Herbert Linderman questioned if there was supposed to be a written report of the meeting with AES and if there were minutes.

Supervisor Meyers stated that a report given orally is sufficient and the meetings were just informational meetings.

Floyd Koerner stated that he feels that it is necessary to have good Counsel and commended the Town Board for opening up other avenues of communication with AES.

RESOLUTION 84-07

AUDIT OF CLAIMS

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

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

Resolved that the bills be paid in the following amounts:

General Fund	No. 216 through No. 270	\$ 67,757.92
Highway Fund	No. 66 through No. 85	9,109.19
Sewer Fund	No. 49 through No. 59	5,085.14
Water Fund	No. 59 through No. 69	2,606.89

There being no further business on a motion of Councilman Wayner, seconded by Councilman Chaffee, the meeting adjourned at 9:34PM subject to the Call of the Clerk. Carried unanimously.

Rebecca A. Connolly, MMC
Town Clerk