

REGULAR MEETING
MARCH 10, 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 10th day of March 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
	Kenneth J. Bigelow ----	Supt. of Highways
	Melvin H. Denny -----	Supt of Water/Sewer/Grounds
	Robert Roberson -----	Counsel
	Randy Roeseler -----	Engineer

Attended by: Approximately 16 residents and 3 students from Barker Central School

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

RESOLUTION 43-09

APPROVAL OF MINUTES

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 the minutes of the February 10th and 23rd, 2009 meetings be approved as submitted by the Clerk.

RESOLUTION 44-09

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

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 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

LOWER LAKE ROAD BRIDGE

Mike Leydecker, Project Manager from Wendel Duchscherer, gave an overview of the construction of the bridge on Lower Lake Road. He presented three alternatives for

construction ranging in price from \$601,511 to \$1,862,506. He explained the differences in each alternative. He stated that there will be a public information meeting on Monday, March 16, 2009 at the Town Hall at 7PM and then the plans will be submitted to the state for approval by late March. He stated the project is on schedule and presented a summary of the problems. Mr. Leydecker stated the existing bridge is smaller than should be for the creek and explained all the alternatives of construction. He stated the design approval is needed from the NYS Department of Transportation (DOT) which could take about 6 months to one year. He explained that the process will be bid, with the bid awarded by the Town Board and that additional funding will be sought from DOT. He stated the final design will be approved by the Town Board and that he hopes to go to bid on the project in the Fall with construction to be done in Spring 2010.

COMMUNICATIONS

Clerk Connolly read a letter from Fort Hyde Kennels reporting there is a spay/neuter clinic in Blasdell that offers services the shelter needs which would show a savings from using local veterinarians. The shelter asked if the Town would subsidize the cost of the trip.

Clerk Connolly read a letter from the Erie-Niagara Tobacco-Free Coalition requesting the Town to adopt a resolution supporting the removal of all tobacco advertising from retail outlets.

Clerk Connolly announced there will be a workshop entitled "Purchase of Development Rights" on Wednesday, March 18, 2009 from 7 – 9PM at the Cornell Cooperative Extension Center in Lockport.

Attorney Roberson stated the next decision filing date of the Appellate Court is March 20, 2009 and he anticipates the decision on the AES Pilot will be made at that time.

SMOKE DETECTOR PROGRAM

Clerk Connolly reported that the smoke detector giveaway program was conducted on February 21, 2009 with approximately 36 volunteers canvassing the entire town in one day. She stated that packets were left at all homes where no one answered, with instructions to call the Town Hall to arrange delivery of the smoke detectors. Clerk Connolly stated that approximately 1,000 smoke detectors have been given away to date. She stated that there were a number of homes that had no smoke detectors or fire extinguishers and numerous homes lacked house numbers. She stated that in the packet was an order form for the reflective house number signs and she hoped that people would purchase the signs. She stated that information on each home was obtained and a spreadsheet is being compiled with all the information. She said the information will be shared with the County so they will know what home has smoke detectors, fire extinguishers and carbon monoxide detectors. She said upon review of the results, the Town will be able to ascertain if the program needs to go further to

provide fire extinguishers and carbon monoxide detectors. Clerk Connolly thanked the Barker Fire Department, the Boy Scouts and the town workers that volunteered.

RESOLUTION 45-09

CHAIRMAN OF ASSESSORS

Councilman Wayner stated that Councilman Engert and he met with the Assessors to discuss the qualifications for Chairman; to review the qualifications of Randall Hildebrant and Robert Glidden; and to discuss areas of improvement. He stated the concerns they heard were fairly recent and they recommended that Randall Hildebrant be appointed the Chairman. Mr. Wayner stated that it would be Chairman Hildebrant's responsibility to carry out the recommendations that were made at the meeting with the Town Board following up.

Councilman Engert stated that both Bob and Randy were very qualified. He stated all three Assessors were very candid and informative.

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 Randall Hildebrant be appointed Chairman of the Assessors.

RESOLUTION 46-09

AMENDMENT TO DOG LAW

Councilman Wayner stated our current local dog law does not address situations of habitual violations of the dog ordinance regarding howling or loud barking. He suggested language that will strengthen the penalty part of the law, with the assistance of Attorney Brandt.

Discussion ensued regarding the language, term of imprisonment (if any), harassment, seizure and removal of the dog from the premises, and the responsibility of the Judge to carry out this law.

Clerk Connolly presented additions that need to be added to the law which would include definitions, license fees, and impoundments.

Councilman Wayner stated that he will work on fine tuning the language with the Attorney.

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 a Public Hearing be held on April 14, 2009 at 7:30PM on a proposed amendment to the Code of the Town of Somerset, Chapter 65, regarding dogs.

RESOLUTION 47-09

TIRE COLLECTION

Superintendent Denny reported that residents will drop their tires off at the Water/Sewer Treatment Plant again this year. He stated the Plant will be opened from April 20th through May 3rd during regular business hours, with special hours on the 2 weekends. He stated that the tires will be picked up by Modern Disposal on May 4th and the specifications and times will be in the newsletter. He stated in 2007, 31 tons of tires were picked up and in 2008, 22 tons were dropped off.

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 Superintendent Denny is authorized to conduct a tire collection drop off at the Wastewater Treatment Plant as proposed.

RESOLUTION 48-09

RESTRUCTURE OF ASSESSING OFFICE

Councilman Wayner stated the Somerset Government Efficiency Committee investigated the costs of assessing and that he had sent a summary of the report to the Board prior to the meeting. He presented a recommendation to the Town Board from the committee to go from three elected Assessors to a sole appointed Assessor with the Town Board making the appointment.

Councilman Engert stated the Somerset Government Efficiency Committee meetings were held under the Open Meetings Law and that the minutes of the meetings and the reports are available on the website.

Supervisor Meyers stated the Town will realize a savings of 35% with this recommendation.

Councilman Wayner stated that savings per parcel were analyzed with Somerset's being \$36.16, which would drop to \$20.46 per parcel, realizing a 43.5% reduction in cost without sacrificing service.

Councilman Chaffee asked if it was looked at by the thousand dollar cost of assessment.

Councilman Wayner said no.

Councilman Gow stated that would be a fairer way to look at the savings, because what would be a comparable town does not have a major industry.

Discussion ensued regarding the need for assessment of the power plant; measuring savings by cost per parcel versus assessment; ORPS setting assessments; annual savings and cost effectiveness; and qualifications and monetary value of sole assessor.

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 Attorney Roberson is authorized to draft a proposed local law for a sole appointed assessor without a referendum.

RESOLUTION 49-09

SOLE APPOINTED ASSESSOR

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

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

WHEREAS, the Somerset Town Board is committed to make certain that the local government is lean, efficient and delivers cost effective necessary services for it's residents and;

WHEREAS, the Somerset Government Efficiency Committee is tasked to explore specific shared service and consolidation opportunities that provide for a more efficient local government and to make recommendations to the Somerset Town Board based upon quantified data that will demonstrate a clear and direct benefit to the residents of the Town of Somerset and;

WHEREAS, the Somerset Government Efficiency Committee has thoroughly studied the way the Town currently provides for real property tax assessment and has examined the available alternatives that could lead to more efficient, accurate and cost effective property tax assessments and the quantified data resulting from such study is posted and available for the public record and;

WHEREAS, the NYS Office of Real Property Services encourages sole appointed assessors as they are subject to certain qualifications and training requirements.

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Somerset shall take necessary action to adopt a local law providing for a sole appointed assessor for real property tax assessment in the Town, to be effective on January 1, 2010.

RESOLUTION 50-09

TOBACCO ADVERTISING

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

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

WHEREAS, smoking is the number one cause of preventable death in the United States; and

WHEREAS, the Surgeon General has concluded that tobacco advertising encourages people to use tobacco, especially youth; and

WHEREAS, in 2005, tobacco companies spent \$13 billion to market cigarettes in the United States, most of which was spent at point of sale; and

WHEREAS, the economic impact of tobacco use is a drain on our community keeping taxes high and making employers spend more money on health insurance which reduced jobs in our region; and

WHEREAS, we have a responsibility to protect the public's health, especially those who are young and most vulnerable; and

WHEREAS, an estimated 33% of adolescent experimentation with smoking can be directly attributed to tobacco advertising and promotional activities;

NOW THEREFORE BE IT RESOLVED that the Town Board of the Town of Somerset hereby supports the efforts of the Erie-Niagara Tobacco-Free Coalition to protect the children of Erie and Niagara Counties and the Town of Somerset by asking local retailers to reduce tobacco advertising by doing the following:

- No price promotions or discounts.
- Removing all tobacco brand advertising inside and outside of their store.
- Keeping tobacco displays out of view of customers.
- Agreeing to place material in their store advising smoking customers where they can get assistance to stop using tobacco products.

RESOLUTION 51-09

BATTING CAGES AT PARK

Bill Moeller, Acting President, and Brian Carmer, representatives of the Somerset Youth Baseball Organization presented a proposal to the Town Board requesting batting cages for the park. Mr. Carmer stated that the organization serves over 200 youth from the school district. He stated that having permanent batting cages will help the players compete in the tournaments because they do not have the equipment to practice hitting. He stated that this will help with both baseball and softball. Mr. Carmer stated the cages would be located adjacent to the basketball court on the west side and would consist of a 24' x 12' Parco building to house the pitching machines and provide additional needed storage with the area fenced. He stated the approximate cost is \$14,000 and that the organization has \$6,000 toward the project. He explained the safety factors of the proposal.

Discussion ensued regarding the liability of vandalism and accidents; insurance requirements; use of the facilities by the public; the use of town forces to build the project; maintenance issues; monetary contribution from the town; ownership of the equipment and building; possible lease agreement; and long term plans.

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 Attorney Roberson prepare a lease agreement with the Somerset Youth Baseball Organization for the batting cages.

RESOLUTION 52-09

CONSTRUCTION OF BATTING CAGES

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

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

Resolved that the Town will contribute the workforce and donate the construction of the facility for the batting cages to the Somerset Youth Baseball Organization with a price not to exceed \$9,000 as budgeted.

Mr. Carmer stated the cement work is being donated by Fazzolari Construction.

RESOLUTION 53-09

LEGAL SERVICES

Supervisor Meyers stated that the Request for Proposals for Legal Services have been received and ranked by the Board Members. He stated that he would like to schedule interviews with the 4 top firms of the 6 that submitted proposals.

Discussion ensued regarding the ranking system and the need to extend the current agreement with Andrews, Pusateri, et al for legal services.

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 Andrews, Pusateri, Brandt, Roberson and Brant, LLP be retained to provide legal services until April 30, 2009.

Discussion ensued regarding the interview process and dates to conduct interviews. The Board set Monday, March 23, 2009 at 5:00PM to conduct the interviews of the firms. Clerk Connolly will schedule the firms for the interviews and notify the firms that will not be interviewed.

RESOLUTION 54-09

ABSTRACT OF CLAIMS

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 the bills be paid in the following amounts:

General Fund	No.	72 through 115	\$	47,505.56
Highway Fund	No.	29 through 44	\$	27,341.64
Sewer Fund	No.	20 through 31	\$	5,034.33
Water Fund	No.	24 through 35	\$	14,344.86

PUBLIC COMMENT

James Hoffman addressed the Board regarding the following issues:

1. The successful electronic recycling that has been taking place at the Wastewater Treatment Plant, thanking the Barker Central School students that have participated, Clerk Connolly for coordinating and hosting the project, and Superintendent Denny and his crew for the facilities. He stated that approximately 17,000 pounds have been collected to date and he feels that the town is on pace to collect as much as Lewiston. He stated that Niagara County has collected about 100,000 pounds of electronics so far.
2. He voiced his concern with Governor Paterson's proposal to allow Town Councils to make the Highway Superintendent and Town Clerk appointed officials. He stated that it is taking his vote and the votes of the people in the Town away and it is not acceptable or democratic. He asked the Town Board to take a position to retain those offices as elected positions.

Supervisor Meyers stated that he doesn't feel that (the change in the law) will happen.

Councilman Chaffee stated the Town of Royalton passed a resolution.

Clerk Connolly explained the Governor's proposal that is included in the budget bill regarding this issue. She stated that Part NN – Sections 26 – 28 gives the authority of a Town Board by resolution, subject to permissive referendum, to make the positions of Town Clerk, Highway Superintendent and Receiver of Taxes appointed positions. She stated there is a mechanism currently in the law that allows Town Boards to make those positions appointed via Local Law subject to mandatory referendum.

Clerk Connolly stated that there is absolutely no fiscal savings to the state or the localities to make the positions appointed, as more than likely, the current salaried positions would be changed to hourly positions and the overtime costs would exorbitant, especially with the number of hours that a Highway Superintendent puts in during the winter months.

Clerk Connolly stated that there is a huge movement on to have the language removed from the budget bill and that the Speaker of the Assembly, Sheldon Silver, will be the person to remove the language.

RESOLUTION 55-09

RETENTION OF ELECTED POSITIONS

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 Town Board of the Town of Somerset wishes to go on record OPPOSING Governor Paterson's General Government Budget Bill A156./S56 – Part NN – Sections 26 through 28 that gives a Town Board the power to convert the office of Town Clerk, Highway Superintendent and Receiver of Taxes, from an elected to appointed position without any direct input from the residents of the Town.

Don Cuchie addressed the Board regarding the barking dog situation and made suggestions to the proposed law specifically:

1. Mandatory or discretionary removal of the dog
2. If a dog is removed who pays for the room and board of the dog during the appeals period?
3. Consider a jail sentence for the violation.

Councilman Wayner said his comments would be taken into consideration while drafting the proposed law.

On a motion of Councilman Gow, seconded by Councilman Wayner, the meeting adjourned at 9:50 PM subject to the Call of the Clerk. Carried unanimously.

Rebecca A. Connolly, MMC
Town Clerk