

REGULAR MEETING
OCTOBER 13, 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 13th day of October 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
	Arthur Herdzik -----	Counsel
	Randy Roeseler -----	Engineer

Attended by: Approximately 11 residents

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

RESOLUTION 122-09

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 September 8th and October 5th, 2009 meetings be approved as submitted.

RESOLUTION 123-09

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

Councilman Gow asked if any money had been received from Niagara County towards the Black and Veatch expenses.

Supervisor Meyers stated not as of yet and he will find out if they intend to pay that or not.

Councilman Engert asked if they have been billed.

Clerk Connolly stated that she had billed the County through Attorney Herdzik and inquired today if he had heard from Mr. Taylor. Attorney Herdzik followed up today and emailed Mr. Taylor to check the status of payment. She stated there is another bill that needs to be sent this month.

Councilman Gow asked Clerk Connolly if she had ever received a resolution.

Clerk Connolly stated no. Supervisor Meyers said that he has a resolution in the form of an email agreement.

TOWN BOARD MEETING
OCTOBER 13, 2009 PAGE 2

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 Supervisor's Monthly report be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer's Report

Police Report

Dog Control Officer's Report for July and August

ATTORNEY REPORT

Attorney Herdzik reported the following:

1. Judge Kloch has granted an extension of time to precede with the Article 7 proceedings with AES and that the school was not a party to the action at that time. He stated that he had met with Attorney Taylor who represents Niagara County in the proceedings and that the County agreed to commission the services of Arrow Appraisal and Black & Veatch, with this being confirmed in writing. He stated that he sent copies of the bills to Mr. Taylor in early September and he was made aware that the matter has not been resolved. Mr. Herdzik stated that he has followed up with a communication to Mr. Taylor today.
2. He presented the Board with reports from Town Prosecutor Degnan on court matters and Attorney Conidi on Planning Board matters.

OPEN BURNING PRESENTATION

Code Enforcement Officer Hildebrant stated that there has been questions regarding the new open burning regulations and that a communication has been received from Assemblyman Steve Hawley regarding the same. He asked Officer Roger Thompson to be present to explain the new regulations.

Roger Thompson, a NYSDEC officer, gave a report on new regulations that take effect October 14, 2009 regarding open burning in New York State. He stated the purpose of the new regulations is to improve the air quality in New York by eliminating the contaminants and pollutants. Mr. Thompson stated there are exemptions to the law including ceremonial fires, camp fires 3' in diameter and 4' high; religious events; and disposal of a flag in a proper way. He stated that farmers can burn products that are generated on the farm and the fire must be attended at all times with it burned out within 48 hours. He stated the regulations are to eliminate the burning of trash; products made with chemicals; furniture; and all non-natural wood products. He stated that nothing can be burned that has been treated.

Attorney Herdzik asked if the regulations are issued by the DEC.

Mr. Thompson stated yes and they were approved by the Legislature. He stated the regulations are 6 NYCRR Part 215.2.

Discussion ensued regarding different articles that can be burned; nuisance smoke; violations and penalties; burning of leaves; the health of the community and education of the population.

COMMUNICATIONS

Clerk Connolly stated a communication had been received from Assemblyman Steve Hawley opposing the new burn ban regulations.

HAIGHT ROAD SPEED LIMIT

Clerk Connolly read a letter from NYS Dept. of Transportation stating a traffic engineering investigation has been completed on Haight Road between Quaker Road and Hartland Road. The letter stated that based on the data collected, they have established a 45 MPH speed limit for Haight Road from Hartland Road to the existing 35 MPH speed limit and that all signs necessary to post the speed zone shall be erected by the Town of Somerset.

RESOLUTION 124-09

PLANNING BOARD APPOINTMENT

Councilman Gow reported that she and Councilman Engert had interviewed the applicants for the Planning Board vacancy.

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 Krista Snell is appointed as Planning Board Alternate with the term expiring December 31, 2009.

SOLE ASSESSOR APPOINTMENT

Supervisor Meyers stated applications were received and there are 2 qualified applicants for the sole assessor position. He stated that he invited both applicants to be interviewed during Executive Session. He asked Attorney Herdzik if the appointment of the sole assessor can take place prior to the reorganization meeting in January.

Attorney Herdzik stated that the vacancy does not occur before January 1st, 2010, and there will be new council members, therefore by law it is the responsibility of the sitting Board as of January 1, 2010 to make the appointment.

Supervisor Meyers stated that he feels the applicants need to have some idea of the appointment so they can plan accordingly and would like to ask the new potential Board members to join the interviews so an educated vote can be made at the reorganizational meeting.

Attorney Herdzik stated that it is the majority of the Board who determines who attends an Executive Session and not the Supervisor.

RESOLUTION 125-09

DOG CONTROL OFFICER VACANCY

Councilman Engert stated that Mark Remington has served as the Deputy Dog Control Officer and he has expressed interest in the position of Dog Control Officer. He stated that a job description has been developed by Councilman Gow.

TOWN BOARD MEETING
OCTOBER 13, 2009 PAGE 4

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 Mark Remington is appointed as Dog Control Officer and Nancy Pestinger is appointed as Deputy Dog Control Officer.

Supervisor Meyers asked Councilman Gow and Councilman Engert to meet with Mark Remington and Nancy Pestinger to discuss the job and ongoing problems.

RESOLUTION 126-09

ADOPTION OF PRELIMINARY BUDGET

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 2010 Preliminary Budget is adopted.

RESOLUTION 127-09

PUBLIC HEARING FOR 2010 PRELIMINARY BUDGET AND FIRE CONTRACT

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 a Public Hearing be held on the 2010 Preliminary Budget and the 2010 Fire Contract on November 4, 2009 at 7:30PM, with the regular meeting originally scheduled for November 10, 2009 to be held on the same date.

RESOLUTION 128-09

WATER/SEWER APPOINTMENT

Superintendent Denny stated that he interviewed 10 people for the vacancy and recommends Michael Caleb to fill the vacancy pending all pre-employment investigations and drug screening being returned without problems.

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 Michael Caleb is appointed to fill the vacancy at the Water/Sewer Department.

RESOLUTION 129-09

AUDIT OF CLAIMS

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 bills be paid in the following amounts:

General Fund	No. 364 through 407	\$ 84,341.67
Highway Fund	No. 133 through 144	\$ 2,710.27
Sewer Fund	No. 113 through 126	\$ 7,602.79
Water Fund	No. 102 through 111	\$ 32,690.89

PUBLIC INPUT

James Hoffman addressed the Board regarding:

1. Asked what the proposed budget numbers are and what the tax rate is.

Supervisor Meyers stated that information will be available at the public hearing.

2. Questioned the status of Barker Chemical.

Councilman Engert stated that the property is on the agenda for the Brownfield's Committee meeting tomorrow and that Legislator Syracuse will be in attendance. Discussion ensued regarding the possibility of Niagara County foreclosing on the property and Brownfield status.

3. What is the status of the AES litigation, how does that relate to Judge Kloch and what is the schedule for that.

Supervisor Meyers stated that it is scheduled for January and February. He stated that right now they are in negotiations and hope to have the matters wrapped up.

Councilman Engert stated Judge Kloch is handling the Article 7 matters and has issued a delay in those proceedings. He stated the PILOT is a Court of Appeals matter and that is the schedule Supervisor Meyers is talking about. Councilman Engert stated they are two separate matters.

Robin Jansen asked if there has been any discussion with the new dog control officer regarding loose dogs and if they will pick up the dogs without having to file a complaint. She stated that she was riding her bike a few weeks ago and was bitten. She stated there are 7 dogs along her route and they are consistently loose. She asked if she has to file a complaint against each of the dog owners or can the dog control officer do something.

Councilman Engert stated the new law enacted gives the dog control officer significant authority to enact the law regardless if there is a complaint issued.

Supervisor Meyers stated that if you have an issue with a dog, you need to call and complain if it is something you want addressed.

RESOLUTION 130-09

EXECUTIVE SESSION

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 the Board enter into Executive Session at 9:00PM for the purpose of interviewing the applicants for Sole Assessor with Council candidates Gary Alt and Robin Jansen to join the executive session.

RESOLUTION 131-09

RETURN TO REGULAR SESSION

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 the Board return to regular session at 11:56PM.

On a motion of Councilman Gow, seconded by Councilman Chaffee, the meeting was adjourned at 11:57PM subject to the Call of the Clerk. Carried unanimously.

Rebecca A. Connolly, MMC
Town Clerk