

REGULAR MEETING  
DECEMBER 10, 2014

A Regular Meeting and Public Hearing of the Town Board of the Town of Somerset, County of Niagara and the State of New York were held at the Town Hall, 8700 Haight Road, Barker, New York on the 10<sup>th</sup> day of December 2014.

Present: Daniel M. Engert ----- Supervisor  
Randall J. Wayner ----- Councilman  
Gary R. Alt ----- Councilman  
Robin R. Jansen ----- Councilwoman  
Jeffrey M. Dewart ----- Councilman  
Tracy L. Carmer ----- Clerk  
Michael M. Flint ----- Supt. of Highways  
Melvin H. Denny ----- Supt of Water/Sewer/Grounds  
Michael J. Norris ----- Counsel

Attended by: Code Enforcement Officers Remington and Lee, numerous residents and BCS students and coaches

Notice of said meeting was posted in the Lockport Union-Sun & Journal on November 21, 2014 with same being posted on the same day at the Town Hall and on the website.

Supervisor Engert opened the Public Hearing at 6:31PM.

Clerk Carmer read the notice of hearing.

**PUBLIC HEARING – 2015 FIRE PROTECTION DISTRICT CONTRACT**

With no one desiring to be heard, Supervisor Engert closed the hearing at 6:33PM.

**REGULAR MEETING**

Supervisor Engert opened the regular meeting at 6:33PM with the Pledge to the Flag and a prayer for guidance.

**PROCLAMATIONS FOR BCS FALL SPORTS CHAMPIONS**

Supervisor Engert stated that tonight is a great honor and is a time to show our appreciation for all that our athletes and community members do to make the Town of Somerset a great place to live. The Town Board likes to recognize those who make a significant difference in our community.

**PROCLAMATION FOR BCS VARSITY FIELD HOCKEY TEAM**

Supervisor Engert read a proclamation honoring the Barker Varsity Girls Field Hockey team and the coaches on a winning 2014-2015 season. The team achieved a record of 16-1-1 and won the 2014 Niagara Orleans League Championship for the ninth consecutive season, and won the NYSPHSA Section VI Class C for the seventh straight season. Supervisor Engert recognized individual members for their achievements, both athletic and academic and proclaimed that December 10, 2014 is dedicated as the 2014 Barker Central School Varsity Championship Day in the Town of Somerset.

**PROCLAMATION FOR BCS VARSITY BOYS CROSS COUNTRY TEAM**

Supervisor Engert read a proclamation honoring the Boys Cross Country team for being the 2014 Niagara Orleans League Champions for the sixth time in seven years with a record of 14-0, the NYSPHSA Section VI Class D Champions for the eighth consecutive season, and the second place finisher in the State for Class D. Individuals were recognized for their achievements, both athletic and academic and Supervisor Engert proclaimed that December 10, 2014 is dedicated as the 2014 Barker Central School Varsity Championship Day in the Town of Somerset.

**PROCLAMATION FOR OUTSTANDING SPORTSMANSHIP**

Supervisor Engert recognized Allison Austin for receiving the overall highest award for Outstanding Sportsmanship for the Niagara Orleans League and proclaimed that December 10, 2014 is dedicated as the 2014 Allison Austin Outstanding Sportsmanship Day in the Town of Somerset.

**PROCLAMATION FOR DO THE RIGHT THING AWARD**

Supervisor Engert recognized Chloe Lee for receiving the 2014 Do the Right Thing Award for her kindness, thoughtfulness and demonstration of care and compassion to another student and proclaimed that December 10, 2014 is dedicated as the Chloe Lee Do the Right Thing Day in the Town of Somerset.

RESOLUTION 126-2014

**APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT**

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

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

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

RESOLUTION 127-2014

**APPROVAL OF THE MINUTES**

On a motion of Councilman Alt, seconded by Councilman Dewart, the following resolution was

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved the minutes of the previous meetings are approved as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer  
Dog Control Officer  
Police Report

QUARTERLY REPORTS RECEIVED AND FILED:

Water/Sewer Report

RESOLUTION 128-2014

**FIRE PROTECTION DISTRICT CONTRACT**

On a motion of Councilman Jansen, seconded by Councilman Dewart, the following resolution was

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved, the fire contract is approved for 2015 at \$220,500 and authorizes the Town Supervisor to sign said contract.

RESOLUTION 129-2014

**SNOW AND ICE CONTRACT WITH NEW YORK STATE**

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

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved that Supervisor Engert 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 2016.

RESOLUTION 130-2014

**HIGHWAY PLOW EQUIPMENT PURCHASE**

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

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

WHEREAS, General Municipal Law Section 103(16) permits any board of a political subdivision to "piggyback" off another political subdivision for purchases of goods and equipment if such contract was let to the lowest responsible bidder; and

WHEREAS, the County of Onondaga, by bid reference number 7823, put out for sealed bids the furnishing of Trucks (Heavy Duty Class 8) Cab-Chassis Type and said bid allowed all municipal entities authorized under the General Municipal Laws of the State of New York to purchase goods under this Bid Contract; and

WHEREAS, Beam Mack Sales Service, Inc was the awarded this bid Contract by the County of Onondaga; and

WHEREAS, the Town of Somerset finds it is in the best interest of the Town to "piggyback" off of the County of Onondaga Bid No. 7823 as permitted by General Municipal Law Section 103(16); now therefore be it

RESOLVED, that the Town of Somerset Highway Superintendent is hereby authorized to purchase a 2016 Mack GU 713 Cab and chassis with Allison Automatic as provided for under the County of Onondaga Bid No. 7823 from Beam Mack Sales Service, Inc. at a cost not to exceed \$217,875.30 and said expenditure shall be taken from the 2015 budget.

RESOLUTION 131-2014

**ANNUAL AUDIT**

On a motion of Councilman Jansen, seconded by Councilman Alt, the following resolution was

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved, that the audit committee, consisting of Councilman Jansen and Councilman Dewart, shall perform the year end audits of the Supervisor, Town Clerk, Tax Collector and Justice.

RESOLUTION 132-2014

**ENCUMBRANCES**

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

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved the funds for invoices of goods not received for 2014 are encumbered.

RESOLUTION 133-2014

**BUDGET AMENDMENTS**

On a motion of Councilman Jansen, seconded by Councilman Dewart, the following resolution was

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved as provided in section 107 and 115 of the Town Law, that the Supervisor of the Town of Somerset is hereby authorized to expend from the unexpended balances or surplus revenues such sums as may be necessary to cover amounts by which the actual expenses were incurred in 2014 in any amount exceeding the amount budgeted.

RESOLUTION 134-2014

**FEASIBILITY STUDY**

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

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved that the Supervisor is authorized to enter into agreement with Wendel to conduct a study to evaluate whether additional capacity can be provided at the Somerset Wastewater Plant and to what extent and to conduct a study to expand the sewer district boundaries to include the Lakeshore Site and to determine the cost to build a collection line to the Somerset Wastewater Plant, with costs not to exceed \$20,000.

RESOLUTION 135-2014

**EXTENSION OF THE RESTATED PILOT AGREEMENT BETWEEN THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AND SOMERSET OPERATING COMPANY**

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

ADOPTED Ayes 5 Engert, Alt, Dewart, Jansen, Wayner  
Nays 0

**WHEREAS**, the Niagara County Industrial Development Agency ("Agency") and AES Eastern Energy L.P and AES Somerset, LLC ("AES") previously entered into a relationship whereby the parties executed and delivered the following documents: (i) Lease Agreement between AES and Agency, (ii) a Leaseback Agreement, between Agency and AES and (iii) a Payment-in-Lieu-of-Tax Agreement between the Agency and AES, and

**WHEREAS**, in 2012 AES transferred its interest in and to the electrical generating station in Somerset, New York ("Facility") to Somerset Operating Company ("Company") and the Company assumed AES's interest in and to, the Facility and the project documents pursuant to that certain Assignment and Assumption Agreement and Restated PILOT Agreement, dated on or about June 26, 2012 (the "Assigned Agreements"), and

**WHEREAS**, the restated PILOT Agreement dated June 1, 2012 is set to expire on December 31, 2015, and

**WHEREAS**, the Company has now submitted to the Agency a new application requesting a one (1) year extension of the Restated PILOT Agreement; the additional PILOT payment will mirror the final year of the PILOT Payment schedule, while retaining the remaining terms and conditions of the PILOT Agreement, and

**WHEREAS**, it has been requested that Town of Somerset, as one of the affected taxing jurisdictions, supports the application to the Agency, and consent to a one (1) year extension of the PILOT Agreement along the same terms and conditions as in the Restated PILOT, now, therefore, be it

**RESOLVED**, that the Town of Somerset Town Board does hereby consent to an extension of the Restated PILOT Agreement dated June 1, 2012 between Somerset Operating Company, as successor to AES Eastern Energy L.P. and AES Somerset, LLC ("Company") and the Niagara County Industrial Development Agency ("Agency") for the electrical generating station in Somerset, New York through December 31, 2016, such restated PILOT terms shall include, but not be limited to the following:

1. The total PILOT Agreement payment to be paid by the Company for the County of Niagara and Town of Somerset tax year 2016, and the Baker Central School District tax year 2015-2016 shall be \$5,120,000.00, and

2. Niagara County shall continue to receive 31.5% of the PILOT payment (\$1,612,800), the Town of Somerset shall continue to receive 9.25% (\$473,600) and the Barker Central School District shall continue to receive 59.25% (\$3,033,600), and
3. Niagara County shall continue to pay for its special districts from its portion of the PILOT payments and the Town of Somerset shall continue to pay for its special districts from its portion of the PILOT payment, and be it further

**RESOLVED**, that the Town of Somerset Town Board does hereby authorize the Town of Somerset Supervisor to execute all agreements and stipulations so as to support the application of the Company, and consent to an extended and restated PILOT Agreement for the electrical generating station in Somerset, New York through December 31, 2016.

RESOLUTION 136-2014

**SHARED SERVICE AGREEMENT - ASSESSOR**

Supervisor Engert stated that Assessor Dispenza holds a position with the NYSDOT that has been determined to be incompatible with the position as Assessor with the Town. The Assessor has told the Supervisor to begin looking for other service opportunities. On a motion of Councilman Alt, seconded by Councilman Dewart, the following resolution was

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved that the Supervisor is authorized to enter into such necessary agreements for the provision of a shared Assessor and assessing services with the City of Niagara Falls pursuant to the provisions of Section 119-0 of the General Municipal Law of the State of New York and/or a real property appraiser, within appropriated budget amounts for the provision of such service.

RESOLUTION 137-2014

**NIACAP AGREEMENT**

On a motion of Councilman Jansen, seconded by Councilman Alt, the following resolution was

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved that the Supervisor is authorized to enter into an agreement with the Niagara Community Action Program (NIACAP) for 2015, for the budgeted amount of \$2,500.

RESOLUTION 138-2014

**SALARIES FOR 2015**

On a motion of Councilman Alt, seconded by Councilman Dewart, the following resolution was

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved that salaries as budgeted are approved effective January 1, 2015.

RESOLUTION 139-2014

**AUDIT OF CLAIMS**

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

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved that the bills have been reviewed by the Town Board and are authorized for payment in the following amounts:

|              |                         |             |
|--------------|-------------------------|-------------|
| General Fund | No. 391 through No. 428 | \$33,623.56 |
| Highway Fund | No. 124 through No. 136 | \$12,530.55 |
| Sewer Fund   | No. 122 through No. 144 | \$24,792.08 |
| Water Fund   | No. 100 through No. 112 | \$ 4,978.16 |

Councilman Dewart left the meeting at 7:05PM.

**PRIVILEGE OF THE FLOOR**

Jim Hoffman – asked when there will be a hearing on the PILOT.

Supervisor Engert advised that it will take place on January 13, 2015 at 5:00PM at the Town Hall.

Jim asked for an update on the Barker Chemical site.

Supervisor Engert stated that in mid-November he was advised that the DEC was still working on it. Supervisor Engert will send another email.

On a motion of Councilman Jansen, seconded by Councilman Alt, the meeting adjourned at 7:08PM subject to the Call of the Clerk. Carried unanimously.

---

Tracy L. Carmer, RMC  
Town Clerk