

**TOWN BOARD REGULAR MEETING
MARCH 14, 2018**

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 March 2018.

Present: Daniel M. Engert ----- Supervisor
Robin R. Jansen ----- Councilwoman
Jeffrey M. Dewart ----- Councilman
Jon Hotaling ----- Councilman
Tracy L. Carmer----- Town Clerk
Melvin H. Denny ----- Supt of Water/Sewer/Grounds
David Haylett----- Attorney

Absent: Chris Bronson----- Councilwoman
Michael M. Flint ----- Supt. of Highways
Mindy Austin ----- Confidential Asst. to the Supervisor

Late Arrival: Brian Sibiga ----- Engineer

Attended by: 15 residents

Supervisor Engert called the meeting to order at 6:00PM with the Pledge to the Flag and a prayer for guidance.

BROADBAND UPDATE

Legislator Godfrey provided an update on the Broadband Initiative with the following points:

- History: the process began in 2010. All of the town boards in Niagara and Orleans counties put forward money to determine the unserved points in our towns and there were 4,000 found to be unserved. Governor Cuomo redefined unserved to include anyone who does not have 25mb download and that raised the number of address points to well over 10,000. We found a vendor who was willing to meet all of the requirements. Charter Communications and Time Warner Cable merged and the vendor said there is not enough to bid on anymore.
- Current: round 3 came out and Governor Cuomo realized that what was left was not going to solve the solution. So he gave a lot of money to HughesNet which is satellite. It is not reliable, high speed or affordable. Empire State Development said they are bound to install satellite for no more than \$49 and limit the monthly bills to \$60 for 1,169 homes. They are not covering the remaining homes that need it. The business model says that unless you have 15 homes per mile it is not beneficial to run fiber down the road. The FCC argues that between the state and federal governments there is enough money to do it, but it is political to get the money.

Legislator Godfrey stated the newspaper quoted him saying that we would be 98% covered and that is what he believed was supposed to happen. The head of the NYS Broadband office contacted him and told him that he is wrong. The next day there was an article in the paper saying that he was wrong.

Legislator Godfrey had a meeting with Chris Collins and will be going to Washington D.C. He said there is \$4.53 billion for universal service support to close the "digital divide." Commissioner Pai from the FCC is committed to doing that.

Supervisor Engert stated that he is trying to find out which 97 address points that we are receiving funding for.

Betty Wolanyk asked if the governor can stop the funding to the counties. She said there were some rural development funds available 6 years ago and New York State opted out for rural areas.

Legislator Godfrey stated there is broadband funding through the USDA but the state did opt out.

Ben Seward asked when the meeting is going to take place with the FCC.

Legislator Godfrey said it will take place within a month.

**PROPOSED LOCAL LAW AMENDING THE CEMETERIES PROVISION (CHAPTER 82)
OF THE CODE OF THE TOWN OF SOMERSET**

Supervisor Engert called the hearing to order at 6:15PM.

Clerk Carmer read the Notice of Public Hearing.

Supervisor Engert stated that with the donation of land from the power plant we are able to open up plot sales in West Somerset Cemetery. While some families want to transfer their plot from one cemetery to another we felt it was the appropriate time to look at our cemetery regulations, along with adjusting rates to bring them current with labor rates. We reviewed 12 local cemeteries and Somerset still has the lowest plot prices.

With no one desiring to be heard, Supervisor Engert closed the hearing at 6:21PM.

Supervisor Engert opened the regular meeting at 6:22PM.

RESOLUTION 67-2018

SEWER REPAIR PHASE TWO (QUAKER/HAIGHT)

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

ADOPTED: Ayes	4	Engert, Jansen, Dewart, Hotaling
Nays	0	

WHEREAS, the Town desires to proceed with Phase 2 of the Quaker Road and Haight Road sewer repairs; and

WHEREAS, Wendel has submitted a proposal dated March 8, 2018 to provide design and construction support for the sewer repairs at a cost of \$8,000.00; and

WHEREAS, proposals for professional services are not subject to the competitive bidding requirements of the Town's Procurement Policy;

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Somerset hereby retains Wendel to provide design and construction support for the Phase 2 Quaker Road and Haight Road sewer repairs at a cost not to exceed \$8,000.00; and be it further

RESOLVED, that the Supervisor is authorized to execute any and all documents in such form as is satisfactory to the Town Supervisor and the Town Attorney, and take whatever other actions may be necessary to give effect to this resolution.

Water/Sewer Superintendent Denny stated the sewer main underneath Haight Road at Quaker is going to be relined. There are two other spots where there are large holes to be repaired with a liner. He said that this is not something we can just dig up to repair so it is cost effective to bring in a company to perform the repair.

Supervisor Engert stated that this is a budgeted item.

Brian Sibiga entered the meeting at 6:24PM.

RESOLUTION 68-2018

HIGHWAY TRUCK PURCHASE

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

ADOPTED: Ayes 4 Engert, Jansen, Dewart, Hotaling
 Nays 0

WHEREAS, the Town of Somerset Highway Superintendent desires to purchase a used pickup truck; and

WHEREAS, the Highway Superintendent placed a bid at public auction on a 2016 Ford F250, VIN number 1FT7W2B64GEC73515 with 15,000 miles in the amount of \$27,600.00; and

WHEREAS, the bid was awarded to the Highway Superintendent in the amount of \$27,600.00; and

WHEREAS, the 2016 Ford F250 was auctioned by Roy Teitsworth Inc. on behalf of the Town of Woodhull, New York; and

WHEREAS, General Municipal Law Section 103(6) provides an exception to competitive bidding when purchasing surplus or second-hand supplies, material or equipment from the federal government, the state of New York or from any other political subdivision; now therefore be it

RESOLVED, that the Town Board of the Town of Somerset waives the competitive bidding requirement as the purchase of the 2016 Ford F250 is surplus equipment from the Town of Woodhull, New York falling within the exception provided by General Municipal Law Section 103(6); and be it further

RESOLVED, that the Highway Superintendent is authorized to enter into a contract for the purchase of the 2016 Ford F250 pickup truck, VIN number 1FT7W2B64GEC73515 in the amount of \$27,600.00 with Roy Teitsworth, Inc.; and be it further

RESOLVED, that the Town Highway Superintendent and Town Supervisor are authorized to execute any and all documents in such form as is satisfactory to the Town Supervisor and the Town Attorney, and take whatever other actions may be necessary to give effect to this resolution.

Councilman Hotaling said that he understands the truck is in like new condition and suggested that it gets rust proofed to save money down the road.

RESOLUTION 69-2018

CEMETERY RATES

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

ADOPTED: Ayes 4 Engert, Jansen, Dewart, Hotaling
 Nays 0

WHEREAS, pursuant to Town Code Section 8202, the Town Board may establish fees for cemetery services for the sale of graves and interments by resolution,

NOW, THEREFORE, BE IT RESOLVED:

The rates for cemetery services for the sale of graves and interments in the Town of Somerset are hereby established as per the attached cemetery rate schedule as amended, effective April 1, 2018.

Cemetery Rate Schedule

Grave:	\$375.00
Grave Opening:	<u>Summer Rate (April 1 – November 30)</u>
	\$465.00 – weekday
	\$540.00 – weekend/holiday
	<u>Winter Rate (December 1 – March 31)</u>
	\$565.00 – weekday
	\$690.00 – weekend/holiday

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Cremation Ashes: \$250.00 per grave
Headstone Foundation: \$50.00 per running ½ foot with a minimum of \$200.00
Disinterment Fee: \$625.00 per disinterment
Lot Transfer Fee: \$100.00 per lot transfer (effective January 1, 2019)

RESOLUTION 70-2018

LOCAL LAW #4-2018 ENTITLED "A LOCAL LAW AMENDING THE 'CEMETERIES' PROVISION (CHAPTER 82) OF THE CODE OF THE TOWN OF SOMERSET

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

ADOPTED: By Roll Call Vote Supervisor Engert Aye
Councilwoman Jansen Aye
Councilman Dewart Aye
Councilman Hotaling Aye

RESOLVED, Local Law # 4-2018 entitled "Cemeteries" is hereby enacted and effective upon its filing with the New York State Department of State.

RESOLUTION 71-2018

ANNUAL TIRE DROP-OFF

Supervisor Engert stated the tire drop off will take place April 23rd through April 27th from 7AM – 3PM, and April 28th from 9AM – Noon. The drop off location will remain at the Town Highway Garage.

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

ADOPTED: Ayes 4 Engert, Jansen, Dewart, Hotaling
Nays 0

Resolved to establish the annual tire recycling collection day to take place on Monday April 23rd through Friday April 27th from 7AM – 3PM at the Highway Garage. On Saturday April 28th from 9AM to Noon we will have staff available to collect the tires at the Highway Garage.

RESOLUTION 72-2018

RECYCLING BIDS

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

ADOPTED: Ayes 4 Engert, Jansen, Dewart, Hotaling
Nays 0

WHEREAS, the Town desires to offer tire recycling to town residents, and

WHEREAS, the Town received four quotes to dispose of large and small tires, and

WHEREAS, the lowest responsible quote received was provided by Modern Corporation for \$3,035.00, and

WHEREAS, the lowest responsible quote for large tires was provided by Geiter Done of Western New York for \$500.00, NOW THEREFORE

BE IT RESOLVED, the Town Board of the Town of Somerset hereby authorizes the Town Supervisor to enter into a contract with Modern to collect and dispose of small tires, and

BE IT FURTHER RESOLVED, the Town Supervisor is authorized to enter into a contract with Geiter Done of Western New York to dispose of large tires.

These rates are approximations as the quotes are provided as a "per ton" rate and Superintendent Denny estimates what we have traditionally received. Supervisor Engert thanked Superintendent Denny for his work on obtaining the bids.

MONTHLY REPORTS RECEIVED AND FILED:

Dog Control
Code Enforcement

ANNUAL REPORT RECEIVED AND FILED

Barker Senior Citizens

RESOLUTION 73-2018

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

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

ADOPTED: Ayes 4 Engert, Jansen, Dewart, Hotaling
 Nays 0

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

RESOLUTION 74-2018

AUDIT OF CLAIMS

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

ADOPTED: Ayes 4 Engert, Jansen, Dewart, Hotaling
 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. 99 through No. 137	\$ 46,993.67
Highway Fund	No. 30 through No. 46	\$ 71,245.48
Sewer Fund	No. 25 through No. 37	\$ 5,175.28
Water Fund	No. 16 through No. 25	\$ 16,813.12

RESOLUTION 75-2018

APPROVAL OF THE MINUTES

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

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ADOPTED: Ayes 4 Engert, Jansen, Dewart, Hotaling
Nays 0

Resolved the minutes of February 14, 2018 be accepted as submitted.

PRIVILEGE OF THE FLOOR

Pam Atwater read a letter that she wrote to Governor Cuomo announcing a newly formed coalition called POWER (Protecting (Lake) Ontario's Waterfront, Environment and Resources). Their goal is to educate people on the negative consequences of erecting wind turbines along the lakeshore. The coalition consists of twelve groups currently and they represent thousands of people. She said it is the position of all of the members that renewable energy is a legitimate goal for New York State to pursue but should never be free of assessing and balancing all its impacts on other aspects of our environment, economy and quality of life. She asked the Governor to reject APEX's proposal for Somerset and Yates.

Betty Wolanyk said that she has gone through the Town meeting minutes for the past year looking for some information and was impressed by the thoroughness of the minutes and how accurately the public comment sessions were captured. She told Clerk Carmer she does a great job. She said she is proud of the Supervisor, Town Board, Planning Board and Town employees. She stated their professionalism is admirable and wanted to publicly acknowledge that and thank everyone for their professionalism. She said that in examining the stipulations submitted by Lighthouse Wind, at first glance they appear to be substantial and thorough. However when reading it she said there are formatting issues that make it difficult to follow the document. The table of contents does not specify that there are appendices even though there are twice as many pages of appendices as pages of original text. She said that part of that are 128 pages of the Army Corps of Engineers manual for assessing visual impacts that were scanned in. She said that some pages have an item numbered but no text with it. She feels it is a slipshod performance by APEX and wonders why anyone would allow them to build the wind turbines if they cannot complete a written document. She provided examples that the wind industry has denied but are acknowledged in the stipulations: stray voltage affecting livestock; pollution; health impacts of sound and infrasound; and health impacts of shadow flicker. She stated that 14 pages of the report address noise issues so she feels it is a significant issue. She also pointed out that they told the Yates Town Board that the last request for MET towers would be the last, but in the stipulations it indicates that there will be temporary and permanent towers.

Jim Hoffman thanked the board for their patience and involvement and efforts to keep Lighthouse Wind out of town. He also reviewed the stipulations and feels giving us only 21 days to comment is symptomatic of how we are treated and is glad they increased the amount of time. He said he does not see a benefit of local officials signing off on the document. He believes the section on noise and environment shows the possibility that they will not select a turbine when filing the application and he wonders how it can be filed

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without the knowledge of the operating characteristics of a specific wind turbine. He said the visual impact caught his attention because they admit that you will be able to see the turbines for 10 miles. He stated they will apply for an "Eagle Take" permit for the killing of eagles. He said that GE is working on a turbine that is 853' high with 350' blades. He stated that this turbine is for offshore but perhaps Lighthouse Wind will start at 600' but over their 49 year lease grow to 853'. He also stated that Ohio is tightening their setbacks for the entire state.

Cathi Orr talked about a leaking turbine in Orangeville. She referred to Jim Hoffman's comments and said that the turbines were switched from 1.5 to 1.6 at the last minute so that is a real issue.

On a motion of Councilwoman Jansen, seconded by Councilman Dewart, the meeting adjourned at 6:45P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk

A Local Law amending the “Cemeteries” provision (Chapter 82) of the Code of the Town of Somerset.

Be it enacted by the Town Board of the Town of Somerset as follows:

Chapter 82 of the Code of the Town of Somerset relating to Cemeteries is hereby repealed in its entirety and replaced with the following:

§82-1. Rules and Regulations.

- A. All graves sold for Somerset Cemeteries shall be in accordance with the provisions of the laws of the State of New York and shall not be used for any other purpose than as a burial place for deceased human beings. The sale of graves shall be limited to past or present Town of Somerset residents and their spouses or distributees. A sworn affidavit of residence in the Town is required of all purchasers before a deed conveying a burial space will be issued. Full purchase price of graves must be paid before a deed will be issued or a burial permitted in a grave. All graves sold are under the permanent care of the cemetery.
- B. Graves shall be used only by the purchaser or the purchaser’s spouse or distributees.
- C. Only the Superintendent of Grounds of the Town of Somerset is permitted to plant trees/shrubbery within Town cemeteries. The Superintendent of Grounds of the Town of Somerset has the right to order the removal of any trees and shrubs within Town cemeteries.
- D. One non-glass crock, non-glass vase of flowers, shepherd’s hook or wreath per grave is allowed and it must be located immediately next to the headstone. Two eternal flames are allowed and must be located immediately next to each side of the headstone. Crocks, vases and shepherd’s hooks may be placed on the graves after May 15th and shall be removed by November 1st of each year. Wreaths may be placed on the graves after November 1st and shall be removed by April 1st. Eternal flames may be left year-round. The Town of Somerset reserves the right to remove all items from graves as soon as they become unsightly or according to the schedule above.

The placing or installation of signs, boxes, shells, toys, metal designs, ornaments, chairs, settees, glass vases, glass crocks, wood or iron crosses and similar articles upon or within graves or lots is prohibited, and the Superintendent of Grounds may order the removal of any of said articles. Vigil lights are permitted, subject, however, to the owner’s risk of damage or loss.

The placing of glass blocks or vases as receptacles for flowers, either artificial or grown on graves or plots is prohibited.

E. Headstones.

- (1) Only headstones of the flat, bevel, slant or monument types are allowed.
 - a. The base maximum for a single grave is 14 inches in depth, 36 inches in length and six inches in height.
 - b. The base maximum for a double and triple grave is 14 inches in depth, 54 inches in length and six inches in height.
 - c. The base maximum for a quadruple grave is 14 inches in depth, 72 inches in length and six inches in height.
- (2) The overall height for all headstone and bases combined shall not exceed 34 inches.
- (3) All foundations shall be constructed under the direction and according to specifications of the Superintendent of Grounds at a charge to the owner.
- (4) Only headstones shall be permitted on a grave. No headstone shall be placed on the grave until the foundation is installed and ready to receive the headstone. No headstone shall be placed in the center or at the foot of a grave.
- (5) Inscriptions upon monuments, headstones or other memorials must bear the family name which appears on the deed to the lot or grave on which the monument, headstone or other memorial is to be situated, except that the deed owner of such grave or lot may, upon his or her own election and upon written notice to the Town, add an additional name thereon.
- (6) Inscriptions shall be in English letters, except that foreign inscriptions may be added after approval of the Superintendent of Grounds obtained upon application containing a translation of the foreign inscription into English.

F. Concrete, steel or fiberglass vaults shall be used.

G. Burial of cremation ashes shall be done by the Town.

- (1) One regular and one cremains burial will be allowed in one grave.
- (2) Four cremains burials will be allowed in one grave.

H. No interment shall be allowed without a permit furnished by the Funeral Director, properly issued by the Registrar of Vital Statistics, on the prescribed form provided by the New York State Department of Health. Payment for burial services shall accompany the burial permit. No prepayment for burial services will be allowed.

I. Corner posts or markers of a suitable material may be installed by the Town of Somerset at the corners of lots upon written request to the Superintendent of Grounds. A lot is considered a group of four consecutive graves owned by one family. Only the Town of Somerset may install such corner markers and the expense shall be incurred by the grave owner requesting the marker.

- J. The Town Board reserves the right to remove any article found within the grounds of the Town of Somerset cemeteries not permitted in accordance with the rules and regulations set forth herein. In addition, agents and employees of the Town Board shall have the right to enter upon or use any adjoining grave or lot to carry out its responsibilities as to interment or maintenance of the cemetery.
- K. The Town of Somerset assumes no responsibility for monuments, memorials or markers or any other articles of any nature removed from any plot or grave, or for damage or destruction of any such articles.
- L. Schedule of Internments.
- (1) Hours of burials and disinterment's shall be as follows:
 - a. Weekdays, Monday through Friday, beginning at 9:00 a.m. to be completed by 2:00 p.m.
 - (2) No holiday or weekend burials will be conducted; however, and only in the event that an extremely exigent circumstance exists, the Town will consider such request(s) and weigh the matter accordingly.
 - a. Such request for holiday or weekend burial should be made to the Town and include the facts and circumstances surrounding the exigent need.
 - b. The Parks and Recreation Committee shall make a determination to approve or deny a holiday or weekend burial.
 - c. Any approved weekend or holiday burial shall occur between the hours of 9:00 a.m. and 2:00 p.m. Any holiday or weekend burial shall be completed by 2:00 p.m.
 - (3) Weekend or holiday burials are subject to additional fees as periodically set by the Town Board by resolution.
- M. All Town cemeteries will be open from dawn to dusk.
- N. The following are strictly prohibited within cemetery grounds:
- (1) Dogs.
 - (2) Placing of watering cans, fertilizer, and decorative stones and/or rocks.
 - (3) Children under 12 years of age unless accompanied by parents or adult guardians.
 - (4) Conduct which would result in damage to cemetery property.

- (5) Picking flowers or breaking or damaging trees, shrubs, or plants.
 - (6) Soliciting business of any kind or soliciting contracts or orders for monuments, headstones or any other work.
 - (7) Signs, notices or advertisements of contractors, stonecutters, undertakers or others.
 - (8) Selling refreshments of any kind.
 - (9) Discarding of wastepaper, flowers, plants or any other waste articles except by depositing the same in receptacles situated within the cemetery for that purpose.
- O. Lot owners are prohibited from allowing internments to be made on their lots for compensation.
- P. No lot owner may transfer his or her lot without the permission of the Superintendent of Grounds. Said transfer request shall be made in writing to the Town Clerk. Commencing on January 1, 2019, any lot transfer approved by the Superintendent of Grounds shall be subject to a lot transfer fee, periodically set by resolution by the Town Board of the Town of Somerset.
- Q. All sales of graves and internments are final and cannot be re-conveyed or sold back to the Town.

§82-2. Fee Schedule.

The fees for cemetery services for the sale of graves and internments shall be established periodically by the Town Board by resolution, which fees shall be incorporated herein and made part of. A copy of the current fees may be obtained from the Town Clerk.

§82-3. Collection of Fees.

The Town Clerk shall be responsible for collecting and turning over to the Town all internment fees and consideration received for the sale of graves.

§82-4. Penalties for Offenses.

Any person or persons, association or corporation committing an offense against any provision of §82-1 of this Chapter or any subsection thereof shall be guilty of a violation of this chapter punishable by a fine not exceeding \$25.00 for each such violation.