

REGULAR MEETING  
MAY 14, 2014

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 14<sup>th</sup> day of May 2014.

Present: Daniel M. Engert ----- Supervisor  
Randall J. Wayner ----- Councilman  
Gary R. Alt ----- Councilman  
Robin R. Jansen ----- Councilman  
Jeffrey M. Dewart ----- Councilman  
Tracy L. Carmer ----- Clerk  
Michael M. Flint ----- Supt. of Highways  
Mindy Austin ----- Confidential Asst. to the Supervisor  
Randy D. Roeseler ----- Engineer  
Michael J. Norris ----- Counsel

Absent: Melvin H. Denny ----- Supt of Water/Sewer/Grounds  
(present in the audience)

Attended by: Code Enforcement Officer Lee and 22 residents and BCS students

Supervisor Engert called the meeting to order at 6:30PM with the Pledge to the Flag and a prayer for guidance.

RESOLUTION 64-2014

**APPROVAL OF THE MINUTES**

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 minutes of the previous meeting are approved as submitted.

RESOLUTION 65-2014

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

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 the Supervisor's Monthly report be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer  
Dog Control Officer  
Police Report

CODE ENFORCEMENT OFFICER TRAINING UPDATE

Supervisor Engert asked CEO Lee if he would provide an update for the board. CEO Lee stated that he has taken his first three classes and is certified for fire inspections. His next session is next week and his training will be complete in July. Supervisor Engert informed the board that the training is required to be completed within three years, and CEO Lee will have completed it in less than one year.

BARKER FIRE DEPARTMENT MONTHLY REPORT

Supervisor Engert stated that the Barker Fire Department requested the opportunity to provide monthly reports to the Town Board. Robert Wendler, President of the Barker Fire Department and Fire Chief Scott Matheis presented: pledging to have open communication with the Town Board, informing the Board that since January 1<sup>st</sup> they have had 84 runs which is up 10% and that the Fire Department is \$24,000 over budget to date due to various items that have increased such as fuel, energy and repair costs.

QUARTERLY WATER/SEWER REPORT RECEIVED AND FILED.

Supervisor Engert advised the board that Superintendent Denny is progressing well after his surgery and can return to work on a limited basis May 27<sup>th</sup>.

RESOLUTION 66-2014

BOARD OF ETHICS

Councilman Wayner stated that he has talked to all of the board members about Norm Atwater and they feel that Norm is a man of high integrity and has served the town in various capacities so is well known. Councilman Wayner requests that the board allow him to contact Norm about the position.

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 Norm Atwater be appointed Board of Ethics member, conditioned upon him filing his oath of office.

PEDDLER LAW – PROPOSED LOCAL LAW #1

Supervisor Engert stated that our Peddler's Law has not been looked at in a number of years and a situation presented itself to Clerk Carmer that she brought to the board's attention. Supervisor Engert advised that the law has a gray area for when the clerk is allowed to deny a permit. Supervisor Engert discussed a particular company having high pressure door-to-door sales. Attorney Norris presented a proposed local law. He stated that we would repeal the existing law in its entirety and replace it with a new local law. Attorney Norris stated that we do need to strengthen our law as there is not as much of a need for door-to-door sales with today's technology. Attorney Norris pointed out the following changes:

- A purpose and intent section will be added that will make it clear what the purpose of the law is
- Exemptions will be modified to specifically include service, school and youth groups

- The age and U.S. citizenship requirement will be removed
- Conviction of a crime involving fraud, theft, assault, a crime of violence or moral turpitude is grounds for refusal
- Raise the application fee from \$25 to \$150, requiring a separate license for each owner or sponsor of the activity and each person engaging in the activity
- Increase restrictions to include no entrance on property when “no trespassing” or “no soliciting” signs are posted
- Require a background check

Attorney Norris stated that when used in other municipalities he works for it has been very successful.

Supervisor Engert asked about the background check. Attorney Norris advised that the applicant can either provide their own background check through a licensed agency or pay a fee for the town to run it.

Supervisor Engert was concerned that a local background check may not provide a criminal history. Attorney Norris stated that he can do further research on it.

Councilman Jansen introduced the local law.

#### RESOLUTION 67-2014

#### **CALL FOR PUBLIC HEARING ON PROPOSED LOCAL LAW #1-2014**

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 a public hearing be held on June 11, 2014 at 6:30PM on the proposed local law to repeal and replace Chapter 139, Peddling and Soliciting.

#### RESOLUTION 68-2014

#### **HEALTHCARE BROKER OF RECORD**

Supervisor Engert stated there is an effort underway to establish a healthcare consortium countywide for the county of Niagara. He stated that he has the endorsement of all of the town supervisors, with the exception of one who is currently without a supervisor, and at the board's request we are going to initiate a study to evaluate the establishment of a healthcare consortium with Somerset spearheading the effort.

As part of this, Supervisor Engert is recommending that the Town Board take into consideration a broker of record who has the capacity to be able to provide the necessary consulting as we go forward in this initiative and for the Town of Somerset in general. The firm of Gallagher Benefits Services also has a wider variety of voluntary benefits that we can offer our employees.

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

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

Resolved, that the Town hereby retains Gallagher Benefits Services and Maureen Pelose as the health care broker of record for the Town of Somerset.

EMPLOYEE HANDBOOK REVISION

Supervisor Engert stated that last year the town negotiated a collective bargaining agreement with the town employees. This established a separate document for those employees to operate under, while previously they followed the Employee Handbook. Supervisor Engert stated that as a result of that, there are a number of changes that have to be made in the Employee Handbook. The rest of the handbook still needs to be reviewed, but some glaring issues need to be addressed at this point in time. The holiday schedule needs to be changed to remove Election Day as a holiday and replace it with Christmas Eve. The sick bank accrual needs to be changed from 120 days to 165 days, which is the maximum allowable under State Law. Vacation days will be changed from 20 days maximum, to 25 days for a 25 year employee. The handbook clarifies that salaried department head positions are not offered comp time. Two policies that have been passed since the handbook was created will be incorporated into the handbook. These policies cover the percentage that the employees contribute to their healthcare, and the mileage forms that are required to be completed for reimbursement.

RESOLUTION 69-2014

**SALARY INCREASE FOR WATER/SEWER SUPT.**

Supervisor Engert stated that a mistake was made in the application of the 2% salary increase to employees. Due to a misunderstanding, the Water/Sewer Superintendent did not receive an increase. Retroactive raises cannot be given to employees because it's considered a gift, unless it's an error or part of a bargaining agreement.

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

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

**WHEREAS**, all non-collective bargaining employees and officials received a two percent annual raise effective January 1, 2014; and

**WHEREAS**, by a mistake the two percent raise did not get implemented for the Water Superintendent Melvin Denny; now therefore be it

**RESOLVED** that the Town Board hereby sets the salary of Water Superintendent at the annual salary of \$63,985.00, effective January 1, 2014; and be it further

**RESOLVED**, that the Town Board directs the payroll clerk to provide a one time lump sump payment to Water Superintendent Melvin Denny for the difference between his 2013 and 2014 salaries from January 1, 2014 through the end of the current pay period and to implement the increase of his salary in his paycheck, effective immediately.

RESOLUTION 70-2014

**EMPLOYEE HANDBOOK REVISION**

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 amendments to the Employee Handbook as presented are hereby adopted.

RESOLUTION 71-2014

**AUDIT OF CLAIMS**

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

General Fund	No. 143 through No. 182	\$ 37,199.86
Highway Fund	No. 37 through No. 50	\$ 6,494.22
Sewer Fund	No. 42 through No. 50	\$ 8,908.38
Water Fund	No. 32 through No. 41	\$ 1,691.68

Councilman Alt asked Supervisor Engert if anything has been decided on the Planning Board's request to meet with the Zoning Board. Supervisor Engert stated that it's under legal review. Attorney Norris advised that the two boards are separate and have separate duties and he needs to research whether they can meet jointly. Supervisor Engert asked Attorney Norris to report back to him and Councilman Alt when his review is complete.

**PRIVILEGE OF THE FLOOR**

Jim Ferington asked if Councilman Alt's comment was about the concern that they have on the law change on the Lakeshore Residential District.

Supervisor Engert stated that it was unrelated entirely.

Jim Ferington asked if it's moving.

Supervisor Engert stated that it's under consideration with the Planning Board.

Attorney Norris stated that his firm provided the Planning Board with a draft for their review and consideration for putting an accessory building on a vacant lot when they have a house on the same street. It will be discussed at the next Planning Board meeting.

Supervisor Engert stated that the Planning Board will conduct their due diligence on it and will issue a recommendation to the Town Board for consideration to adopt as a local law or not.

Jim Hoffman asked what the plan is for cleaning up violations at Somerset Corners.

Supervisor Engert stated that is under consideration by the Code Enforcement and there is some level of dispute by the CEO as to what violation exists there.

Jim Hoffman stated that there is a vehicle violation there right now. The ordinance states that there can't be two unlicensed vehicles.

Supervisor Engert will send CEO Lee to the property to have a discussion with the owner.

TOWN BOARD MEETING  
MAY 14, 2014 PAGE 6

Jim Hoffman stated that the Kenyons came and boarded up the windows. He doesn't feel that they should be allowed to come into town and purchase property and let it get run down.

Councilman Wayner stated that he will reach out to Kenyons to see what the status is.

Norm Jansen advised that the Kenyon issue was brought up at a Planning Board meeting and CEO Remington stated that he was going to follow up with the Kenyons.

Supervisor Engert reminded Jim Hoffman that the CEO has legal limitations about walking onto private property.

On a motion of Councilman Jansen, seconded by Councilman Alt, the meeting adjourned at 7:18 P.M. subject to the Call of the Clerk. Carried unanimously.

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Tracy L. Carmer, RMC  
Town Clerk