

REGULAR MEETING  
DECEMBER 10, 2013

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 10<sup>th</sup> day of December 2013.

Present:     Daniel M. Engert ----- Supervisor  
              Randall J. Wayner ----- Councilman  
              Robin R. Jansen ----- Councilman  
              Jeffrey M. Dewart ----- Councilman  
              Rebecca A. Connolly ---- Clerk  
              Michael M. Flint ----- Deputy Supt. of Highways  
              Melvin H. Denny ----- Supt of Water/Sewer/Grounds  
              Mindy Austin ----- Confidential Asst. to the Supervisor  
              Randy D. Roeseler ----- Engineer

Absent:       Gary R. Alt ----- Councilman

Attended by: Numerous residents; BCS students and coaches

Supervisor Engert called the meeting to order at 7:00PM with the Pledge to the Flag and a prayer for guidance.

**PROCLAMATIONS**

Supervisor Engert stated that sports teams for the 2013 Fall Season from Barker Central School won championships and for a small school to have 3 teams win championships is remarkable. He said we are very proud of the efforts that the student athletes make, not only in their performance on the field but their dedication to their school work while you are participating in practice every day.

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

Supervisor Engert read a proclamation honoring the Barker Varsity Boys Cross Country Team and the coaches on finishing their second straight undefeated Niagara Orleans League season, winning the Niagara Orleans League Championship for the second straight season and the Niagara Orleans League Tournament Championship for the third straight season and proclaimed that December 10, 2013 is dedicated as the 2013 Barker Central School Varsity Championship Day in the Town of Somerset.

**PROCLAMATION FOR BCS VARSITY BOYS GOLF TEAM**

Supervisor Engert read a proclamation honoring the Barker Varsity Boys Golf Team and the coaches on finishing their second straight undefeated Niagara Orleans League season, winning the Niagara Orleans League Championship for the second straight season and the Niagara Orleans League Tournament Championship for the third straight season and proclaimed that December 10, 2013 is dedicated as the 2013 Barker Central School Varsity Championship Day in the Town of Somerset.

**PROCLAMATION FOR BCS VARSITY FIELD HOCKEY TEAM**

Supervisor Engert read a proclamation honoring the Barker Varsity Field Hockey Team and coaches on winning the Niagara Orleans League Championship for the 8<sup>th</sup> consecutive season; the NYS Public High School Section VI Class C Championship for the 6<sup>th</sup> consecutive season; and the Far West Regional Class C Championship and proclaimed that December 10, 2013 is dedicated as the 2013 Barker Central School Varsity Championship Day in the Town of Somerset.

**RECOGNITION OF JAMES HOFFMAN FOR HIS YEARS OF SERVICE**

Supervisor Engert recognized James Hoffman for his 38 years of service to the Planning Board and thanked him for working on behalf of the citizens of Somerset. Chairman Jon Hotaling stated that it has been his pleasure and honor to have worked with Jim and presented him with a plaque for his dedicated service from 1975 through 2013 on behalf of the Town of Somerset Town Board and Planning Board. Jim Hoffman said he served and is grateful that he did. He said he met a lot of people, dealt with a lot of issues, learned a lot and hopes the Town of Somerset is better for his service.

**PROCLAMATION IN RECOGNITION OF REBECCA CONNOLLY UPON RETIREMENT AS TOWN CLERK**

Supervisor Engert stated he has known Becky for a long time as a friend, a second Mother and over the years while he was a member of the Planning Board, a member of the Town Board and for the last two years as the Supervisor. He stated he has learned from no one more than Becky Connolly as a Board Member and Supervisor. He stated he sincerely and deeply appreciates her influence she has had in his life both personally and professionally.

Supervisor Engert read a proclamation recognizing Rebecca Connolly for her exceptional and outstanding public service as the elected Town Clerk for 28 consecutive years since 1985 and proclaimed December 31, 2013 as "Rebecca A. Connolly Municipal Clerk Extraordinaire Appreciation Day" in the Town of Somerset.

Clerk Becky Connolly thanked the Board and the community for placing their faith in her for all these years and thanked them for the opportunities that were afforded her as Town Clerk.

**RESOLUTION 145-2013**

**APPROVAL OF THE MINUTES**

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

ADOPTED   Ayes   4       Engert, Wayner, Jansen, Dewart  
              Nays   0

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

RESOLUTION 146-2013

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

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

ADOPTED Ayes 4 Engert, Wayner, 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

COMMUNICATIONS

Clerk Connolly reported the monthly Time Warner communication was forwarded previously to the Board.

**BROADBAND RESEARCH UPDATE**

Supervisor Engert reported the company that was contracted to research the broadband area in Somerset have teams on the ground and are tracking the information. He stated this information is going to be used for expansion of the footprint in Somerset and Mr. Evhen Tupis reported there are two providers who have expressed interest.

**LAKESHORE DRIVE REFUSE ISSUE**

Councilman Wayner stated that he looked at maps on the Niagara County website on the placement of the refuse carts at the end of Johnson Creek Road and Lakeshore Drive. He stated it was decided by the Board to allow all residents in that area to have the use of the carts. He stated a sign that provided by Modern at no charge was put up at the site stating such. He said the sign should eliminate any confusion of who has use of the carts. He thanked Deputy Superintendent Flint and the Highway crew for putting up the sign.

Supervisor Engert stated he received a call from a Somerset Drive resident that did not feel this solution will work.

RESOLUTION 147-2013

**ANNUAL AUDIT**

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

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

RESOLUTION 148-2013

**LEGAL REPRESENTATION**

Councilman Wayner stated the Board requested to have this item placed on the agenda for the purpose of obtaining proposals for legal services.

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved Supervisor Engert is authorized and directed to seek and obtain proposals for comprehensive legal services for the Town of Somerset and to provide a recommendation for Town Board action at the next scheduled meeting.

RESOLUTION 149-2013

**BUDGET AMENDMENTS**

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved as provided in section 107 and 115 of the Town Law, 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 2013 in any amount exceeded the amount budgeted.

RESOLUTION 150-2013

**PREPAYMENT OF BILLS**

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved that all bills incurred for 2013 are authorized to be pre-paid.

RESOLUTION 151-2013

**ENCUMBRANCES**

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved the funds for invoices of goods not received for 2013 are encumbered.

RESOLUTION 152-2013

**KENNEL CONTRACT**

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved the contract with Fort Hyde Kennels, 8513 Ridge Road, Gasport, NY 14067 to provide kennel services for 2014 at \$4,920.00 is approved.

RESOLUTION 153-2013

**SALARIES FOR 2014**

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved the salaries for 2014 are approved effective January 1, 2014 as budgeted.

RESOLUTION 154-2013

**AUTHORIZE TRACY CARMER AS SIGNATOR AT BANK**

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved Tracy Carmer, Town Clerk Elect, is authorized to be added to the bank accounts as an authorized signator effective January 1, 2014.

RESOLUTION 155-2013

**APPOINTMENT OF REBECCA CONNOLLY AS MARRIAGE OFFICER**

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved Rebecca A. Connolly is appointed as marriage officer for a four year term ending December 31, 2017 with no salary.

RESOLUTION 156-2013

**REGULAR MEETING DATES SET**

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved that all future regular meetings for the Town Board be held on the second Wednesday of the month at 6:00PM, Planning Board meetings be held on the first Wednesday of the month at 7:30PM and the Zoning Board of Appeals meetings be held as needed on the fourth Wednesday of the month at 7:30PM.

RESOLUTION 157-2013

**GRIEVANCE DAY CHANGE – Proposed Local Law 1-2014**

Supervisor Engert stated Real Property Tax Law §512 permits grievance day to be changed and he requested the Board to consider a local law to do that in order to align the date so the Assessor can be available for the entire day.

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved a public hearing be held on January 8, 2014 at 6:00PM on a proposed local law changing grievance day to the first Wednesday after the fourth Tuesday in May.

RESOLUTION 158-2013

**CODE UPDATE**

Supervisor Engert stated the code needs to be updated and the codification company, General Code, provided options to reformat the code to an 8 ½" x 11" format.

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved the Supervisor is authorized to execute the contract with General Code, 781 Elmgrove Road, Rochester, NY 14624 for reformatting the Code of the Town of Somerset to an 8 ½" x 11" format as proposed.

RESOLUTION 159-2013

**LABORATORY SERVICES**

Supervisor Engert presented quotes for laboratory services at the Wastewater Treatment Plant and stated they have been vetted by the Engineer and Superintendent Denny.

Superintendent Denny stated the companies will be doing several tests and they must be state qualified. He said if we are not happy with the lowest price we can always get more quotes and move up.

<u>Name and Address of Vendor</u>	<u>Price per month</u>
IsleChem LLC 2801 Long Rd., Grand Island, NY 14072	\$ 285.00
Pace Analytical 2190 Technology Dr., Schenectady, NY 12308	\$139.00
Pieczonka Consultants 18 Cottage Place, Lackawanna, NY 14218	\$174.00
TestAmerica 10 Hazelwood Dr., Amherst, NY 14228	\$309.00

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved Superintendent Denny is authorized to execute a contract with Pace Analytical, 2190 Technology Dr., Schenectady, NY 12308 to provide laboratory services for 2014 at \$139.00 per month as proposed.

RESOLUTION 160-2013

**2014 REORGANIZATIONAL MEETING**

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved the reorganizational meeting of the Town Board will be held on January 2, 2014 at 6:00PM.

RESOLUTION 161-2013

**AUDIT OF CLAIMS**

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

ADOPTED Ayes 4 Engert, Wayner, 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. 418 through No. 448	\$ 37,012.08
Highway Fund	No. 108 through No. 115	\$ 3,811.10
Sewer Fund	No. 119 through No. 136	\$ 5,167.94
Water Fund	No. 93 through No. 101	\$ 3,785.50

**PRIVILEGE OF FLOOR**

Jon Hotaling, Planning Board Chairman, stated the first Wednesday of the month for January is New Year's Day and requested the Board meet the 3<sup>rd</sup> Wednesday for January 2014 only.

After discussion with the Town Board it was decided the Planning Board would meet on the second Wednesday, January 8, 2014 at 7:30PM.

Norman Jansen said as the newest member of the Planning Board he thanked Clerk Connolly and Jim Hoffman for their patience with him on his questions and their knowledge.

James Hoffman thanked Clerk Connolly for her good nature, consultation and contributions to the Planning Board meetings.

Jon Hotaling said Clerk Connolly's endless research and going to other towns for information is invaluable.

James Hoffman addressed the Board regarding the investigation of APEX Energy regarding placing wind turbines in Somerset. He said they are offering leases to land owners and his concern is what Article X does to our town and understands it takes all our local authority away. He said it is a quality of life issue. He stated during the initial stages of power plant, Article VIII did the same thing, setting aside all our zoning laws. He said we had no effect or way of knowing what was going on or how to register a complaint. He said the Erie-Niagara Regional Planning Board obtained community impact funding and said that it allowed us some input. He said if a wind farm is going forward we need to have local voice. He stated there is a wind farm in Herkimer County called Hard Scrabble where landowners have taken the company to court regarding noise and degradation of property values.

Councilman Wayner said there is a lot of information on line about Article X.

Supervisor Engert said there is local representation consisting of a siting board that requires two local members of the community appointed by the Temporary Senate leader and the Speaker of the Assembly. He said the people are selected from eight names that are submitted; four from the Town Supervisor and four by the County where the jurisdiction is. He stated he has discussed this with Senator Maziarz and that the intent of the law is not to throw the local ordinances out. He talked about the project in Cape Vincent that is the first project under Article X, the Public Involvement Plan, and the process to set aside intervenor funds.

Norman Jansen asked how big the Board is.

Supervisor Engert said the Siting Board consists of five permanent members that include the Chairman of the Dept. of Public Service who serves as the Chairperson, Commissioner of Dept. of Environmental Conservation; Commissioner of the Dept. of Health; Chairperson of NYS Energy, Research and Development Authority; and the Commissioner of Economic Development plus the two local members.

#### **FORMER BARKER CHEMICAL PROPERTY UPDATE**

Supervisor Engert stated at the end of November the Project Coordinator of the former Barker Chemical property reported they have received bids for the transportation and disposal of the excavated fill material and now they are working on landfill permits. He said they were hoping to start in early December and that he would contact him to obtain an update on the status.

Jon Hotaling asked what was happening with the Kenyon's property at Somerset Corners.

Supervisor Engert said there is no change and stated it is still in compliance with the Code.



RESOLUTION 162-2013

**EXECUTIVE SESSION**

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

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved the Board enter into an executive session at 8:10PM to discuss health care plan options.

RESOLUTION 163-2013

**RETURN TO REGULAR SESSION**

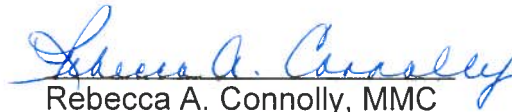
On a motion of Councilman Wayner, seconded by Councilman Dewart, the following resolution was

ADOPTED Ayes 4 Engert, Wayner, Jansen, Dewart  
Nays 0

Resolved the Board return to regular session at 8:50PM.

On a motion of Councilman Jansen, seconded by Councilman Dewart, the meeting adjourned at 8:51P.M. subject to the Call of the Clerk. Carried unanimously.

As I sign my name to this last Town Board meeting of my long career as the elected Town Clerk, it has been an honor and privilege that was afforded to me by the constituents of Somerset to record the history. I have found great joy in my tenure as the Keeper of the Record for the Town of Somerset. This position has been an unequaled learning experience, allowing me friendships and opportunities across the State that I never dreamed possible. My sincere best wishes for peace and prosperity in the future for the Town of Somerset and the elected officials that guide its direction.

  
Rebecca A. Connolly, MMC  
Town Clerk