

REGULAR MEETING  
FEBRUARY 12, 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 12<sup>th</sup> day of February 2013.

Present: Daniel M. Engert ----- Supervisor  
Randall J. Wayner ----- Councilman  
Gary R. Alt ----- Councilman  
Robin R. Jansen ----- Councilman  
Jeffrey M. Dewart ----- Councilman  
Rebecca A. Connolly ---- Clerk  
Kenneth J. Bigelow ----- Supt. of Highways  
Melvin H. Denny ----- Supt of Water/Sewer/Grounds  
Mindy Austin ----- Confidential Asst. to the Supervisor  
Randy D. Roeseler ----- Engineer  
Morgan Jones Jr. ----- Counsel

Attended by: 6 residents and 11 BCS students

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

RESOLUTION 26-2013

**APPROVAL OF THE MINUTES**

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 the minutes of the previous meeting are approved.

RESOLUTION 27-2013

**APPROVAL OF SUPERVISOR'S MONTHLY REPORT**

On a motion of Councilman Dewart, 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

WATER/SEWER QUARTERLY REPORT RECEIVED AND FILED  
TOWN BOARD MEETING

ANNUAL REPORTS RECEIVED AND FILED:

Barker Free Library  
Kennel Report  
Somerset Youth Baseball

COMMUNICATIONS:

Clerk Connolly stated a communication was received from Time Warner regarding channel lineup.

RESOLUTION 28-2013

**DONATE LIFE PROGRAM FUN RUN**

Clerk Connolly stated a request has been received from Barker Central School Donate Life Program requesting the use of town roads for a fun run on April 13, 2013 to kick off the campaign the week of April 15<sup>th</sup> – 19th.

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 permission is granted to the Barker Central School Donate Life Program to use town roads for a fun run on April 13, 2013.

**WEBSITE**

Clerk Connolly reported the new website went live on February 5, 2013 and thanked Councilman Wayner, Tracy Carmer and Dale Howard for their invaluable assistance with the transition.

RESOLUTION 29-2013

**SPDES PERMIT FOR WASTEWATER TREATMENT PLANT**

Superintendent Denny stated NYSDEC (Dept. of Environmental Conservation) has reviewed the SPDES (State Pollutant Discharge Elimination System) Permit for the treatment plant and has made minor adjustments by adding a page to the permit that shows a graphic of how the flow goes through the plant to the lagoons and out to the lake. He said because of the modification, the Board needs to approve the modification so NYSDEC can obtain public comment on the matter. He said the Town is responsible for publishing the notice.

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 Town of Somerset approves the suggested modifications to the SPDES Permit for the Wastewater Treatment Plant so NYSDEC can obtain public comment on the revised permit.

**CEMETERY REGULATIONS**

Supervisor Engert asked Councilman Alt and Councilman Wayner to meet with Superintendent Denny to discuss revisions that may need to be made to the cemetery regulations.

**ZONING LAW REVISIONS UPDATE**

Attorney Jones said the Planning Board will be reviewing the proposed revisions to the site plan and planned unit development sections tomorrow evening. He said there are also proposed changes to the personal wireless section. He said he anticipates they will be approved and forwarded back to the Town Board.

RESOLUTION 30-2013

**APPROVAL OF ASSISTANT TO ASSESSOR**

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 Supervisor Engert is authorized to enter into a contract to retain the services of Anthony Dispenza as Assistant to the Assessor retroactive to January 22, 2013.

**RULES OF PROCEDURE for Planning Board and Zoning Board of Appeals**

Supervisor Engert stated Councilman Jansen and Councilman Alt put together proposed rules of procedure for the Planning Board and Zoning Board of Appeals in Sept. 2011 and they were given to the Planning Board and Zoning Board of Appeals in the Fall 2012 for their input. He stated there has been confusion regarding the intent and asked the Planning/Zoning Advisory Committee consisting of Councilman Alt and Councilman Dewart to meet with the two Boards to discuss the proposed rules.

**CODE VIOLATIONS**

Supervisor Engert asked the Board to review the memorandum from Attorney Jones regarding some code violations for discussion at a future meeting.

**PRIVILEGE OF THE FLOOR**

Dale Howard addressed the board regarding:

1. He stated in Erie County they are sent two different colored envelopes when they receive their vehicle registration. He said if you send your money in a green envelope then the money stays in the County and if you send the pink envelope, the state retains the money. He wondered if Niagara County does this.  
Clerk Connolly said she would check with the County Clerk.
2. He stated that Modern is in charge of the recycling in Amherst and that they have a rewards program that offers coupons to local businesses.

James Hoffman addressed the board regarding:

1. He said he has been in contact with Joe Hickman from Modern regarding recycling and the rewards program. He said it is a good idea but the local businesses have to participate and that Mr. Hickman is not anxious to pursue this. He said that Mr. Hickman would like to put something in our newsletter.
2. He said that he has discussed the former Barker Chemical property with Amy Fisk and that the LaBella report has been turned over to NYSDEC. He said there is a possibility that DEC will authorize additional funds for further cleanup and he would like Somerset to have the opportunity to comment on the cleanup.  
Supervisor Engert said the report has to first be accepted by DEC and once that happens Niagara County has to apply for funds which would be sometime in April 2014. He said they anticipate spending \$105,000 and that the property would not be entirely remediated. He said that once that is done the County has committed to immediately initiate foreclosure proceedings and sale of the property.

Jon Hotaling asked if the building on the former Barker Chemical property can be condemned by the Town.

Attorney Jones said it would be the same process that was used for the 8681 Lake Road property and did not advise the Town to spend the money to do that.

RESOLUTION 31-2013

**BARKER CHEMICAL LETTER OF SUPPORT**

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 Supervisor Engert is authorized to send a letter to New York State Department of Environmental Conservation (NYSDEC) stating the Town supports the findings and recommendations of the LaBella report for the former Barker Chemical property.

**LOWER LAKE ROAD BRIDGE**

Superintendent Bigelow asked Engineer Roeseler if there has been any activity regarding the closeout of the Lower Lake Road Bridge project as contractor still has signs on some private property.

Engineer Roeseler stated they sent the close out papers to the contractor and they refused to sign them. He stated they are obtaining direction from the NYS Dept. of Transportation on how to proceed.

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RESOLUTION 32-2013

**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. 18 through No. 80	\$ 327,668.48
Highway Fund	No. 2 through No. 12	\$ 28,837.13
Sewer Fund	No. 6 through No. 21	\$ 7,482.54
Water Fund	No. 5 through No. 11	\$ 3,122.64

RESOLUTION 33-2013

**EXECUTIVE SESSION**

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 Board enter into an executive session to discuss labor contract negotiations at 7:45PM.

RESOLUTION 34-2013

**RETURN TO REGULAR SESSION**

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 Board return to regular session at 7:52PM.

On a motion of Councilman Jansen, seconded by Councilman Alt, the meeting adjourned at 7:53 P.M. subject to the Call of the Clerk. Carried unanimously.

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Rebecca A. Connolly, MMC  
Town Clerk