

REGULAR MEETING
JULY 9, 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 9th day of July 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: Code Enforcement Officer Remington and 9 residents

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

PUBLIC HEARING – SENIOR CITIZENS TAX EXEMPTION PROPOSED LOCAL LAW

Notice of said hearing was duly published in the Lockport Union-Sun & Journal on June 28, 2013 with same notice being posted on the same date at the Town Hall and on the Town website.

Supervisor Engert opened the public hearing at 7:01PM.

Clerk Connolly read notice of hearing.

Supervisor Engert asked if anyone had comments on the law.

With no one wishing to speak, Supervisor Engert closed the hearing at 7:04PM.

REGULAR MEETING

Supervisor Engert called the regular meeting to order at 7:05PM.

RESOLUTION 84-2013

APPROVAL OF THE MINUTES

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 the minutes of the previous meetings are approved as submitted.

RESOLUTION 85-2013

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

On a motion of Councilman Dewart, seconded by Councilman Jansen, 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

COMMUNICATIONS:

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

Clerk Connolly read a communication from the Niagara County Refuse District stating the landfill will be closed July 3, 2013.

Supervisor Engert read a communication from the Great Lakes Triathlon group asking permission to use the roads on October 5, 2013 for their annual event.

RESOLUTION 86-2013

SENIOR CITIZENS TAX EXEMPTION – LOCAL LAW #4-2013

Supervisor Engert explained the proposed local law will increase the amount of income that is eligible for exemption from tax for any property owner 65 and over. He stated this will keep the Town consistent with the exemption that is offered by Niagara County. He stated that the time frame the property owner must have vested title of the property has been changed from 24 months to 12 months.

On a motion of Supervisor Engert, seconded by Councilman Jansen, the following motion was

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

Resolved Local Law #4-2013 entitled Senior Citizens Tax Exemption is adopted as follows:

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

To amend the Code of the Town of Somerset as follows:

In **Chapter 177 Article I "Senior Citizens Tax Exemption** by repealing §177-1 A. and replacing with a new §177-1 A., amending §177-2 A, by replacing the first sentence, and repealing §177-2 B. and replacing with a new §177-2 B. as follows:

§177-1. Exemption granted.

Real property owned by one or more persons, each of whom is 65 years of age or over; or real property owned by a husband and wife or by siblings, one of whom is 65 years of age or over, shall be exempt from taxation for Town purposes to the extent as provided in the following schedule:

Exemption

Annual Income	(percent)
Less than \$18,025.00	50
\$18,025.00 to \$19,024.99	45
\$19,025.00 to \$20,024.99	40
\$20,025.00 to \$21,024.99	35
\$21,025.00 to \$21,924.99	30
\$21,925.00 to \$22,824.99	25
\$22,825.00 to \$23,724.99	20
\$23,725.00 to \$24,624.99	15
\$24,625.00 to \$25,524.99	10

§177-2. Exceptions.

If the income of the owner or the combined income of the owners property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of \$25,524.99.

The remaining of the subsection remains the same.

Unless the title of the property shall have been vested in the owner or one of the owners of the property for at least 12 consecutive months prior to the date of making application for exemption; provided, however, that, in the event of the death of either a husband or wife in whose name the title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of 12 consecutive months. In the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of 12 consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to

be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year both residences are within the state, the period of ownership of both the properties shall be deemed for the purposes of the exemption from taxation by a municipality within the state granting such exemption. Where the owner or owners title to property which, as of the date of transfer, was exempt from taxation under the provisions of this Article, the reacquisition of the title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this subsection that the title of the property shall have been vested in the owner or one of the owners for such period of 12 consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which, as of the date of such death of an owner or owners, was exempt from taxation under such provisions becomes vested by virtue of devise or descent from the deceased owner or owners or by transfer by any other means within months after such death solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this subsection that the title of the property shall have been vested in the owner or one of the owners for such period of 12 consecutive months shall be deemed satisfied.

This local law shall take effect immediately upon filing with the Secretary of State.

RESOLUTION 87-2013

SALE OF SURPLUS ITEMS

Supervisor Engert asked if the Parks and Refuse Committee had a recommendation on the sale of surplus items.

Councilman Wayner said an inventory was taken of surplus items and different avenues were investigated for the sale of the items. He stated the committee suggests the items be posted on Craig's List at the prices that he has established for 30 days and then the prices can be adjusted if they do not sell.

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

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

Resolved Superintendent Denny is authorized to post the surplus items on Craig's List for sale.

RESOLUTION 88-2013

RENEWAL OF ELECTRONIC RECYCLING AGREEMENT

Councilman Wayner stated the current vendor for the electronic recycling is Sunkking and investigation was conducted by Superintendent Denny to see how their proposal to pay the Town 8 cents per pound compared with other Towns. He said another company called RCR&R from Rochester proposed to pay the Town 3 cents per pound. He said the only other Town that is receiving 8 cents is the Town of Lockport at 8.6 cents.

Superintendent Denny said the majority of the towns are receiving 3 cents.

TOWN BOARD MEETING
JULY 9, 2013 PAGE 5

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 Supervisor Engert is authorized to sign the electronic recycling agreement with Sunkking at 8 cents per pound.

SMALL SCALE SOLAR ENERGY SYSTEM PROPOSAL

Supervisor Engert stated this item was referred to the Town Board from the Planning Board for consideration.

Councilman Jansen questioned what is considered rear and front yard along the lake.

Attorney Jones stated that traditionally it has been reversed along the lake but he cannot find that definition in the code. He stated this should be addressed in the code eventually.

Discussion ensued regarding defining rear and front yard along the lakeshore.

Councilman Alt commended the Planning Board for their work and effort on the proposal.

Supervisor Engert asked Attorney Jones to look into defining the rear/front yard along the lake and that action on the solar system proposal will be tabled.

RESOLUTION 89-2013

APPOINTMENT OF ASSISTANT DOG CONTROL OFFICER

Supervisor Engert stated there has been a vacancy in assistant dog control officer for some time.

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

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

Resolved Daniel Greenwald is appointed as Assistant Dog Control Officer.

RESOLUTION 90-2013

LAKESHORE SITE SEWER SERVICE FEASIBILITY STUDY GRANT

Supervisor Engert stated there is a program that allows municipalities to conduct a feasibility study to explore the possibility of extending sewer service to the lakeshore site.

Engineer Roeseler explained there is a grant available from NYS that allows municipalities to explore avenues to extend sewer service and that the Town of Newfane treatment facility would be the one to be studied to determine what improvements may be needed there in order to extend additional service areas and how that plant may be able to be used on a regional basis. He stated the Village of Wilson is also interested in this study. He said the Town of Newfane will take the lead and the total cost is \$37,500 with the grant providing \$30,000. He said the other money would be shared equally and only paid if the grant is awarded. He said there is no cost to file the grant application and there is no obligation to conduct the study if the grant is not awarded.

Supervisor Engert stated this is part of the economic development plan for the lakeshore site.

TOWN BOARD MEETING
JULY 9, 2013 PAGE 6

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

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

WHEREAS, the Town of Newfane is the operator of a wastewater treatment plant that is in need of improvements; and
WHEREAS, the Town of Newfane desires to study potential improvements to their wastewater treatment plant; and
WHEREAS, the Village of Wilson is under a Consent Order to improve their wastewater treatment plant; and
WHEREAS, the Town of Somerset is in the need of improved wastewater services for economic development purposes; and
WHEREAS, the three municipalities recognize the benefits of shared services to provide municipal services in an efficient manner; and
WHEREAS, the New York State Department of Environmental Conservation and the Environmental Facilities Corporation is offering Wastewater Infrastructure Engineering Planning Grants designed to assist municipalities in initiating a planning process to develop an implementation plan for such improvements; and WHEREAS: a local match of 20% is required for such grant;
BE IT THEREFORE RESOLVED, that the Town of Newfane is authorized to submit a grant for a Wastewater Infrastructure Planning Grant on behalf of the three communities to study the options for improvements to the Town of Newfane wastewater treatment plant and infrastructure; and
BE IT FURTHER RESOLVED, that the Town of Newfane, Village of Wilson and the Town of Somerset will authorize matching funds in the amount of 20% of the local match as their contribution toward the local share for this grant program.

RESOLUTION 91-2013

OPPOSITION OF IJC (INTERNATIONAL JOINT COMMISSION) 2014 PLAN

Supervisor Engert stated the International Joint Commission is holding a public hearing on Sunday, July 14th from 6 – 9PM on lowering the lake level. He said this plan is not good for the lakefront community and this plan is worse than the BV7 plan that the IJC put forth last year. He said the plan will have a devastating economical impact.

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, the International Joint Commission (IJC) has announced consideration of a new plan that will replace the current regulation plan (58DD) that controls water levels of Lake Ontario and the stated purpose of the new plan, known as PLAN 2014 is to reverse environmental damage caused by the current regulation plan (58D), particularly with regard to the restoration of 65,000 acres of shoreline meadow marsh; and

WHEREAS, PLAN 2014 will increase the current range of water levels that private and public riparian property owners relied on for the last 50 years and according to a peer review conducted by the National Academy of Sciences, the potential environmental benefits of the PLAN 2014 are based upon speculative and unreliable research; and WHEREAS, projected lake levels under the proposed plan will result in increased duration and frequency of high and low water, significantly increasing the potential for damages to Lake Ontario riparian's (estimated at over \$2.2 million per year, which is likely an underestimate) and negatively impacting sport fishing and recreational boating economics across the entire region (estimated at over \$94 million per year); and WHEREAS, PLAN 2014 greatly decreases protections that exist in the current plan, replacing them with a plan that results in the transfer of prosperity from Somerset and Niagara County along with other Lake Ontario communities to Hydropower (NYPA and others) who will realize a benefit of approximately \$5.3 million per year on average; and WHEREAS, Somerset and Niagara County residents who own property or businesses along the Lake Ontario shore, including its bays, tributaries and ponds, have voiced their concern about a proposed change in the lake levels that would result in significant damage to their properties, and a corresponding decrease in revenues from recreational boaters and fishermen, both locally-based and those traveling internationally; and WHEREAS, Somerset and Niagara County residents and elected officials are resolute in protecting the waters, streams, and harbors of Lake Ontario, the home for some of the best sport fishing, pleasure sailing and power-boating in the world; and WHEREAS, modifying the current range of operation by PLAN 2014 further hinders boating access and when combined with the protracted absence of federal funding for maintenance dredging of our federal shallow draft harbors, will cause significant and measurable negative financial impacts to the local and regional economy; now, therefore, be it

RESOLVED, the Town Board of the Town of Somerset does herewith respectfully request that the International Joint Commission *reject* in its entirety all current plans for the implementation of the PLAN 2014; and be it further

RESOLVED, that the IJC immediately enact a moratorium on the development of any future proposals to modify the range of water levels on Lake Ontario until the completion of a thorough, objective and all inclusive analysis of the potential economic damages on tourism, recreation, business and residences along the south shore of Lake Ontario (including properties located along harbors, rivers and streams) with a specific section dedicated to the thorough evaluation of damages in Niagara County where impacts have been identified as the most acute; and be it further

RESOLVED, that as part of this study, the Town of Somerset further recommends the Commission also assess the amount of civil work and financial assistance required to mitigate the damage of any future plans, and identify funding sources available to offset said actions; and be it further

RESOLVED, that this study must also evaluate the environmental impacts of repeated flooding of the built environment, to include the identification of the constituents of point and non-point source runoff and the impacts of sediment and nutrient loading on the quality of water in the impacted areas; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the International Joint Commission, Governor Andrew M. Cuomo, the New York Department of State, Joe Martens, Commissioner of the New York State Department of Environmental Conservation, the New York State Environmental Facilities Corporation, U.S. Senator Charles E. Schumer, U.S. Senator Kirsten E. Gillibrand, U.S. Congressman Chris Collins, Senate Environmental Conservation Committee, State Senator George Maziarz, Assemblywoman Jane Corwin, and all others deemed necessary and proper.

PARK REGULATIONS

Councilman Wayner stated there are two issues that have come up with the current park regulations that have not been updated since 1998. He said the Somerset Youth Baseball Organization (SYBO) is trying different avenues to increase revenue including putting sponsorship banners up in the park. He stated there is also a requirement that the teams must have 60% of its members reside in Somerset. He stated things have changed since then and there are not enough children in Somerset to make up the teams.

Supervisor Engert said the Board needs to be considerate for SYBO to bring in revenue to offload this cost from the taxpayer. He said there has to be guidelines regarding the signs. He asked the Parks Committee to work through the issues and report back to the Board for review. He stated he is against a percentage of participation and that the Town needs to support a youth program that spends town tax dollars.

Extensive discussion ensued regarding who determines the policies, how the policies may have been developed, collection of revenue from the other towns that are participating in the program, and the involvement of SYBO in the development of a new policy.

CONSOLIDATION COMMITTEE

Supervisor Engert said a few constituents requested a study to consolidate the Highway Superintendent into an appointed position and to consolidate the Highway Department with the Water/Sewer Department. He appointed Councilman Dewart, Councilman Wayner, Chris Czelusta, and John McDonald to a committee to see if there are any benefits of this consolidation.

RESOLUTION 92-2013

GREAT LAKES TRIATHLON REQUEST

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 Great Lakes Triathlon organization is granted permission to use town roads to conduct the 100 mile race.

RESOLUTION 93-2013

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. 237 through No. 265	\$ 35,105.51
Highway Fund	No. 53 through No. 63	\$ 9,577.43
Sewer Fund	No. 65 through No. 75	\$ 5,568.09
Water Fund	No. 53 through No. 61	\$ 33,685.79

PRIVILEGE OF FLOOR

Brian Carmer questioned if the dates for the consolidation committee meetings will be posted, is the public allowed to attend and if there will be minutes taken.
Supervisor Engert said yes.

Dale Howard asked if the assistant dog catcher is a salaried position.
Supervisor Engert stated it is by voucher.

Mr. Howard suggested this be done with other positions such as Code Enforcement to have someone on call to cover peak times.

James Hoffman asked if there was an update on the former Barker Chemical site.
Supervisor Engert stated test borings are going to be done of the area that is going to be remediated tomorrow.

Mr. Hoffman stated it would be nice to get rid of the building.
Supervisor Engert stated that he was advised in February that this cannot be done as part of the Phase II grant funding.

Engineer Roeseler stated there are standards for backfill and grading.

On a motion of Councilman Dewart, seconded by Councilman Jansen, the meeting adjourned at 8:14P.M. subject to the Call of the Clerk. Carried unanimously.

Rebecca A. Connolly, MMC
Town Clerk

After the meeting, Supervisor Engert notified Clerk Connolly that he appointed Brian Carmer to the Consolidation Committee.