

REGULAR AND REORGANIZATIONAL MEETING
JANUARY 11, 2011

The Regular and Reorganizational 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 11th day of January 2011.

Present:	Richard J. Meyers -----	Supervisor
	Randall J. Wayner -----	Councilman
	Daniel M. Engert -----	Councilman
	Gary R. Alt -----	Councilman
	Robin R. Jansen -----	Councilman
	Rebecca A. Connolly --	Clerk
	Melvin H. Denny -----	Supt of Water/Sewer/Grounds
	Kenneth J. Bigelow ----	Supt. of Highways
	Arthur Herdzik -----	Counsel
	Randy Roeseler -----	Engineer

Attended by: Approximately 9 people and 13 students from Barker Central School

Supervisor Meyers called the meeting to order at 7:07PM with the Pledge to the Flag.

RESOLUTION 1-2011

APPROVAL OF MINUTES

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

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

Resolved the minutes of the December 14, 2010 meeting are approved as submitted.

RESOLUTION 2-2011

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

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

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

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

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer
Dog Control Officer
Police Department

ASSESSOR'S QUARTERLY REPORT received and filed.

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ANNUAL REPORTS received and filed:

Town Clerk
Code Enforcement Officer
Justice
Historical Society
Barker Fire Department
Senior Citizens
Somerset Youth Baseball

SUPERVISOR'S APPOINTMENTS

Supervisor Meyers made the following appointments:

DEPUTY SUPERVISOR – Daniel Engert

HISTORIAN – Peter Devereaux

COMMITTEE APPOINTMENTS:

WATER/SEWER – Supervisor Meyers & Councilman Engert

PARKS & RECREATION – Councilman Engert, Councilman Jansen &
Supt. Denny

ZONING & PLANNING – Supervisor Meyers & Councilman Wayner

DRAINAGE – Councilman Alt, Councilman Wayner & Supt. Bigelow

REFUSE – Councilman Alt, Councilman Wayner & Clerk Connolly

TOURISM – Supervisor Meyers & Councilman Jansen

SENIOR CITIZENS – Supervisor Meyers and Councilman Engert

AUDIT – Councilman Wayner & Councilman Engert

SOMERSET GOVERNMENT EFFICIENCY COMMITTEE –
Councilman Alt & Councilman Jansen

ECONOMIC DEVELOPMENT –
Supervisor Meyers & Councilman Jansen

RESOLUTION 3-2011

APPOINTMENTS

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

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

Resolved that the following appointments are approved as amended:

The REGULAR MEETING of the Town Board shall be held on the 2nd Tuesday of each month at 7:00PM at the Somerset Town Hall, 8700 Haight Road, Barker, New York.

The OFFICIAL DEPOSITORIES for funds (all accounts) shall be:

HSBC Bank USA, 8683 Main Street, Barker, NY
M & T Bank, Lockport, NY
Bank of Akron, Akron, NY

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For Investments:
Chase Bank, New York, NY

OFFICIAL PUBLICATION shall be Lockport Union-Sun & Journal, Lockport, NY

OFFICIAL MILEAGE shall be based on the federal rate which has been established at \$.51 per mile for 2011

LEGAL REPRESENTATION shall be Chelus, Herdzik, Speyer & Monte, P.C. as per agreement through March 8, 2011

FOREMAN for Water/Sewer/Grounds shall be Douglas Lewis

DOG CONTROL OFFICER shall be Mark Remington

DEPUTY DOG CONTROL OFFICER shall be Nancy Pestinger (compensation of hourly rate plus mileage when requested by DCO to assist)

ZONING BOARD OF APPEALS MEMBER shall be Norman Atwater for a five year term expiring 12/31/2015

ZONING BOARD OF APPEALS ALTERNATE shall be Kent Wakefield for a one year term expiring 12/31/2011

ZONING BOARD OF APPEALS CHAIRMAN shall be Herbert Linderman

PLANNING BOARD MEMBER shall be Brian Carmer for a seven year term with term expiring 12/ 31/ 2018

PLANNING BOARD ALTERNATE shall be James Trinder for a one year term expiring 12/31/2011

PLANNING BOARD CHAIRMAN shall be Jon Hotaling

SENIOR CITIZEN DIRECTOR shall be JoAnn Greenwald

NUTRITION SITE SERVICE ASSISTANT shall be Christine Monnin

SENIOR COMMUNITY SERVICE AIDE shall be Gladys Dibble

REQUEST FOR PROPOSALS (RFP) FOR LEGAL SERVICES

Councilman Engert stated that he has been made aware by Supervisor Meyers that the current legal firm would like an increase in compensation. He stated that it is appropriate at this time to put out requests for proposals for legal services to assess what the market will bear for costs associated for legal representation. He asked that this go forward immediately.

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Supervisor Meyers said this should be a recurring thing and that he said the RFP document needs to be reviewed.

Councilman Wayner said the climate is right as we are not in any pending litigation. He said anything that we have going relative to the Verizon project is being spearheaded by another firm and applauded Attorney Herdzik and his firm for coming along side strongly in that endeavor. He said with the firm not being in the lead position, it is a good time to go out now. He said the structure of the RFP itself is good and the only thing that may need to be done is changing a few names and dates and he would like it to go out as quickly as we can.

Discussion ensued regarding review of the Request for Proposal document and timing.

RESOLUTION 4-2011

APPROVAL OF SCHOOLING

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

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

Resolved that schooling for Elected and Appointed Officials, Water Superintendent, Code Enforcement Officer, Assessor and Dog Control Officers when school pertains to respective jobs is duly authorized.

RESOLUTION 5-2011

APPROVAL OF HISTORICAL SOCIETY CONTRACT

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

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

Resolved that the contract with the Town of Somerset Historical Society for \$8,000.00 for 2011 is approved.

RESOLUTION 6-2011

APPROVAL OF LIBRARY CONTRACT

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

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

Resolved that the contract with the Barker Free Library for \$17,000.00 for 2011 is approved.

RESOLUTION 7-2011

APPROVAL OF SENIOR CITIZENS AGREEMENT

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

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

Resolved that the agreement with the Barker Senior Citizens for \$7,500.00 for 2011 is approved.

RESOLUTION 8-2011

APPROVAL OF SOMERSET YOUTH BASEBALL AGREEMENT

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

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

Resolved that the agreement with the Somerset Youth Baseball League for \$6,500.00 for 2011 is approved.

RESOLUTION 9-2011

APPROVAL OF AMERICAN LEGION AGREEMENT

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

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

Resolved that the agreement with the American Legion Herbert W. Carr Post #425 for providing veterans service for 2011 for \$ 1,300.00 is approved.

RESOLUTION 10-2011

APPROVAL OF HIGHWAY AGREEMENT WITH VILLAGE OF BARKER

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

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

Resolved that the contract with the Village of Barker for providing use of highway equipment and services for 2011 is approved.

RESOLUTION 11-2011

APPROVAL OF WATER/SEWER AGREEMENT WITH VILLAGE OF BARKER

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

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

Resolved that the contract with the Village of Barker for providing use of equipment and services for repair of water lines is approved.

RESOLUTION 12-2011

APPROVAL OF ENGINEERING CONTRACT

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

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

Resolved that the contract with Wendel Duchscherer for providing engineering services for 2011 is approved.

RESOLUTION 13-2011

APPROVAL OF AGREEMENT WITH NIACAP

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

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

Resolved the agreement with the Niagara Community Action Program (NIACAP) for \$2,000 for 2011 is approved.

RESOLUTION 14-2011

AUTHORIZE PURCHASE OF STONE, GRAVEL, ETC.

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

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Wayner
Nays 0

Resolved that the Superintendents of Departments are authorized to purchase stone, gravel, asphalt, gasoline, tires, etc., at state and county prices.

RESOLUTION 15-2011

AUTHORIZE PURCHASES UP TO \$1,000.00

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

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

Resolved that the department heads are authorized to purchase up to \$1000.00 per item without prior Town Board approval.

RESOLUTION 16-2011

AUTHORIZE TO PRE-PAY ITEMS

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

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

Resolved that the Supervisor is authorized to prepay utility bills, contracts and postage.

RESOLUTION 17-2011

DESIGNATION OF HIGHWAY FUNDS

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

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

Resolved that pursuant to the provisions of Section 284 of the Highway Law, monies levied and collected for the repair and improvement of highways, and received from the state for the repair and improvement of highways, \$457,709.00 shall be expended for the general repairs upon 33.42 miles of town highways, including sluices, culverts and bridges having a span of less than five feet and boardwalks or the renewals thereof.

RESOLUTION 18-2011

APPROVAL OF INVESTMENT POLICY

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

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

Resolved that upon review by the Town Board, the investment policy of the Town of Somerset is approved.

RESOLUTION 19-2011

APPROVAL OF PROCUREMENT POLICY

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

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

Resolved that upon review by the Town Board, the procurement policy of the Town of Somerset is approved.

COMMUNICATIONS

Resignation of Peter Devereaux from Zoning Board of Appeals

Clerk Connolly read a letter from Peter Devereaux resigning from the Zoning Board of Appeals.

Clerk Connolly provided the Town Board with a copy of the proposed Association of Town resolutions to be voted upon at the annual meeting in February. She also provided a proposed resolution regarding property tax cap.

RESOLUTION 20-2011

ZONING BOARD OF APPEALS APPOINTMENT

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

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

Resolved Kent Wakefield is appointed as a Zoning Board of Appeals member to fill the unexpired term of Peter Devereaux.

ZONING BOARD OF APPEALS ALTERNATE

Supervisor Meyers announced that applications will be accepted for the Zoning Board of Appeals Alternate Member vacancy, with an ad to be placed in the newspaper.

RESOLUTION 21-2011

ANNUAL AUDIT

Councilman Engert reported that Councilman Wayner and he conducted the annual audits of departments on January 10, 2011.

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

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

Resolved the recommendation of Councilman Engert be accepted as follows:

The criminal and civil dockets of the Town Justice for 2010 having been duly examined with the monthly cash summary being viewed and the fines and fees have been turned over to the proper officials; that the records of the Code Enforcement Officer for 2010 having been duly examined and turned over to the proper officials; that the records of the Town Clerk for 2010 having been duly examined and found all fees have been turned over to the proper officials; that the records of the Tax Collector for 2010 having been duly examined and found all fees have been turned over to the proper officials; and the records of the Supervisor for 2010 having been duly examined with all monies disbursed properly.

RESOLUTION 22-2011

EXTENSION OF GASOLINE BID WITH DRUM OIL & PROPANE

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

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

Resolved the gasoline bid with Drum Oil and Propane, Gasport, NY is extended until February 15, 2012 as per contract.

RESOLUTION 23-2011

DELEGATE TO ASSOCIATION OF TOWNS MEETING

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

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

Resolved that Clerk Connolly be appointed delegate for the Association of Towns meeting, with Councilman Engert as alternate.

RESOLUTION 24-2010

PROPERTY TAX CAP

Councilman Engert introduced a property tax cap resolution that was developed by Clerk Connolly and explained that he is against what is currently being proposed by the Governor allowing the state to do what they want with their budgets while the towns and counties will be left to bear whatever mismanagement is reigned down from Albany. He said unless there is mandate relief tied to this proposal and some exceptions that allows local municipalities to address emergencies that may arise, the passing of the property tax cap as proposed by Albany is not the answer.

Supervisor Meyers questioned how PILOTS (Payment in Lieu of Taxes) fall into a property tax cap.

Extensive discussion ensued regarding PILOTS funding versus a property tax cap.

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

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

Whereas, towns provide services to more than eight million New Yorkers, yet account for less than 15% of the overall real property tax burden; and

Whereas, towns are uniquely dependent upon the real property tax to fund town services, more so than counties, cities and villages in that towns do not have the authority to levy sales taxes, occupancy taxes, gross receipts taxes or income taxes; and

Whereas, non property tax revenues (e.g. Mortgage recording taxes, sales taxes, and state/federal aid/grant programs decreased substantially) are subject to market fluctuations and the ability of the federal, state and county governments to share revenue with towns; and

Whereas, the costs to provide town services and to fund town operations continue to increase in the Town of Somerset despite declining revenues, such as:

- Health care has increased over 21% in the past two years even though action had been taken to change plans in order to reduce costs,
- Road maintenance has increased over 30% in the last two years due to the unprecedented increases in oil,

- Pension contributions increased 12% this year and are projected to increase another 17% next year,
- Election costs have increased substantially since the county takeover of elections, with the costs charged back to the property tax payers via their county tax bill,
- Administration of the star exemption that was mandated and funded initially by the state, only to have this funding completely eliminated,
- Dog licensing has been eliminated by the state and mandated for the towns to implement the program without any additional funding,
- Workers compensation insurance has increased by 19%,
- Utility costs have increased substantially.

Whereas, many town expenses are dictated by compliance with federal and state mandates; and

Whereas, simply capping property taxes will not reduce the cost of health care, mandate compliance, pension contributions; and

Whereas, the Town of Somerset has taken initiative in lowering property taxes through staff and salary reductions;

Now, therefore be it resolved, that based upon home rule principles the Town of Somerset calls upon the Governor and Members of the State Legislature to fund and/or eliminate state mandates, reform the real property tax system and address cost drivers in the provision of local government services/operations before implementing a property tax cap; and be it further

Resolved that in order for a real property tax cap to lower property taxes while ensuring the delivery of essential services the program **must include at a minimum**:

- Exemptions for structured costs such as pension contributions, contract obligations, reductions in state or federal aid and emergencies and costs associated with unfunded and underfunded mandates;
- Hardship relief on a case by case basis;
- Mandate relief and reform;
- A defined floor of four percent with the possibility of an increased cap based upon a percentage of inflation; and
- Local override by supermajority vote of the town board which is cost neutral.

RESOLUTION 25-2011

PURCHASE OF GRINDER PUMP

Superintendent Denny presented a procurement for the purchase of a grinder pump to have as an emergency backup.

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

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

Resolved Superintendent Denny is authorized to purchase a F. E. Myers Simplex Grinder Pump from Fluid Kinetics Inc., 251 Thorn Ave. P.O. Box 655, Orchard Park, NY 14127 for \$5,271.00 as proposed.

RESOLUTION 26-2011

MEDICAL INSURANCE CHANGES

Supervisor Meyers stated that he has met with the representative for the medical insurance several times over the last few months and that the current policy the town offers is no longer available. He said the new policy with Blue Cross/Blue Shield will now have a \$15 co-pay for various services once the employee's deductible is used. He said the premium is fairly close to last years.

Discussion ensued regarding the different plans offered by different companies, how the process was handled, and notification of the employees of the change.

Councilman Engert and Councilman Wayner asked that there be Town Board and employee involvement in the medical insurance process in the future.

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

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

Resolved the changes in the Blue Cross/Blue Shield medical insurance coverage plan be approved as proposed for 2011.

RESOLUTION 27-2011

REQUEST FOR PROPOSALS (RFP) FOR LEGAL SERVICES SPECIAL MEETING

Councilman Engert asked that a special meeting be held to discuss the RFP document.

Discussion ensued regarding the need for a meeting, any issues regarding the document, review of the document and the timeframe for issuing the RFP.

On a motion of Supervisor Meyers, seconded Councilman Alt, the following resolution was

DEFEATED Ayes 2 Meyers, Alt
Nay 3 Wayner, Engert, Jansen

Resolved the Board spend the next month reviewing the RFP document and discuss it at the February meeting then post it and wait until the April meeting to make the appointment.

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

ADOPTED Ayes 3 Wayner, Engert, Jansen
Nays 2 Meyers, Alt

Resolved that the RFP document that was used two years ago be reviewed by the Board during the next week and that a special meeting be held on January 18, 2011 at 7:00PM to announce the RFP.

PUBLIC COMMENT

EMERGENCY COMMUNICATIONS SERVICES MEETING

Randy Hildebrant, Barker Fire Dept. Fire Chief, said there will be a meeting regarding the communications towers for emergency services. He stated that the Fire Company will be hosting one of the proposed twelve towers. He stated that the radio services for Niagara County will be completely renovated as per a federal mandate, however the County will have to pay approximately \$20 million and it has to be done by December 2012 or the County will be fined. He stated the radio communications along the lake currently are practically non-existent.

Councilman Engert stated that he will attend the meeting with Chief Hildebrant.

Supervisor Meyers stated that we have two towers in town currently and asked why those towers cannot be used.

Chief Hildebrant stated he will ask that question at the meeting.

Jon Hotaling addressed the board regarding the following:

1. Asked the status of the windmills.

Supervisor Meyers said they are waiting for the engineering firm that represents NYSEERDA to get their act together. He said the foundations are going in next week and Camp Kenan's foundation is already in.

Councilman Engert asked if Camp Kenan contacted the Code Enforcement Officer.

Code Enforcement Officer Hildebrant said they have not contacted him.

Mr. Hotaling said he talked to the maintenance supervisor and the foundation is not in.

2. Asked the status of the heliport.

Code Enforcement Officer Hildebrant stated that he has three proposals but the Board wants five.

James Hoffman addressed the Board in regard to the property tax cap stating that defined benefit plans have no escalator clauses in them at all and asks for a property tax freeze.

RESOLUTION 28-2011

AUDIT OF CLAIMS

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

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen
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. 1 through No. 28	\$ 132,668.69
Highway Fund	No. 1 through No. 4	\$ 3,495.10
Sewer Fund	No. 1 through No. 8	\$ 8,112.28
Water Fund	No. 1 through No. 6	\$ 32,240.67

On a motion of Councilman Wayner, seconded by Councilman Engert, the meeting adjourned at 8:42 PM subject to the Call of the Clerk. Carried unanimously.

Rebecca A. Connolly, MMC
Town Clerk