

REGULAR MEETING
APRIL 12, 2011

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 12th day of April 2011.

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

Attended by: Approximately 10 people and 14 B.C.S. students

Supervisor Meyers called the meeting to order at 7:00PM with the Pledge to the Flag.

RESOLUTION 55-2011

APPROVAL OF MINUTES

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 minutes of the March 8th and March 23rd, 2011 meetings are approved as submitted.

RESOLUTION 56-2011

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

Supervisor Meyers stated that he met with HSBC to find different avenues for investment.

Councilman Wayner asked that a quarterly report showing expenditures versus budget be provided.

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 Supervisor's Monthly report be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer
Police Department
Dog Control Officer

VERIZON LAWSUIT

Attorney Jones reported on the Verizon lawsuit stating that Mrs. Rizzo's attorney brought a motion to limit the record that was needed for the appeal which would eliminate the transcript of what was argued before the Judge, with the Town opposing that motion. Mr. Jones stated the decision came out last week directing the entire record be included in the appeal. He stated the 60 day limit has been reached for the briefs to be filed, of which none have been filed. He gave an overview of the timeframe for the decision to be heard stating that if nothing is done in 9 months, the appeal is dismissed. Mr. Jones stated that today (April 12th) he filed a motion to either dismiss the lawsuit or direct a scheduling order that will fix a date when they will have to file their appeal. He stated that Verizon has asked to be taken out of the appeal process and the order has been signed.

QUARTERLY REPORT from the Assessor received and filed.

COMMUNICATIONS:

COUNTY REDISTRICTING MAPS

Clerk Connolly read a letter from the Town of Newfane to the Niagara County Redistricting Commission urging the Commission to keep the Towns of Newfane and Somerset in the same County Legislative District.

Clerk Connolly reported that the preliminary maps have come out and Somerset and Newfane remain in the same district.

RESIGNATION OF HERBERT MEYER FROM BOARD OF ASSESSMENT REVIEW

Clerk Connolly read a letter from Herbert Meyer resigning his position on the Board of Assessment Review as it would be a conflict of interest with his position as Mayor of the Village of Barker.

Clerk Connolly reported the Town conducted a very successful rabies clinic on Saturday, April 9th and thanked Superintendent Bigelow and the Highway Department for their assistance and for the use of the Highway facilities.

Attorney Jones stated he has been working on the code and finds that there are some areas that need to be addressed regarding enforcing the NYS Building, Maintenance and Fire Code. He presented the Board with a draft local law that will provide the proper enforcement for their review and possible action at a further time.

PROPERTY CONDITION OF 8681 LAKE ROAD

Clerk Connolly read a letter from Mary Sajdak of 8677 Lake Road asking what is being done regarding the condition of the property at 8681 Lake Road. The letter stated that now they are cleaning dead rats out of traps that are reset daily and are no longer able to leave food out for their dog.

Attorney Jones reported that a letter was sent to Mrs. Sajdak stating the Town Board is well aware of the issue, advising her that most professionals involved in pest control strongly advise against leaving dog food outside for more than thirty (30) minutes at a time since dog food is a major attractant of rats, and in fact is used as one of the prime baits in rat traps. Mr. Jones recommended that these guidelines be used. He stated that Mr. Hildebrand and he will keep after the problem.

LOWER LAKE ROAD BRIDGE

Superintendent Bigelow stated last month the bids were approved for construction and the Town has now received the fully executed contract from New York State. He stated that he anticipates the bridge will be built this summer and no digging will be done until all precast items are built. He stated at the present time the state has not allocated any monies for the project but it is 99.9% assured that we will receive the money.

RESOLUTION 57-2011

SOMERSET/HARTLAND/NIAGARA COUNTY WATERLINE AGREEMENT

Superintendent Denny stated that an agreement has been drawn up regarding the waterline interconnection agreement between Somerset, Hartland and Niagara County Water District and all issues have been resolved.

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

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

Resolved the agreement with the Town of Somerset, Town of Hartland and Niagara County Water District is approved.

RESOLUTION 58-2011

HELIPAD

Councilman Engert stated that the funds for the construction of a helipad have been found and urged the Board to move forward with the project.

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

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

WHEREAS, the Town of Somerset is dedicated to providing essential life saving services to its residents whenever possible, and

WHEREAS, the Barker Fire Department, specifically Fire Chief Randall Hildebrant, has identified a life saving emergency service need in our community, and

WHEREAS, the Mercy Flight helicopter transport services provides optimal emergency medical services to the residents of Somerset, including the Village of Barker and the Barker Central School District; and

WHEREAS, the Mercy Flight helicopter requires a safe and suitable helipad to land and receive patients requiring emergent medical care; and

WHEREAS, Chief Hildebrant has identified and recommended a site that is owned by the Town and is not used presently, as a preferred centralized location for construction of such helipad; and

WHEREAS, Chief Hildebrant has followed the procurement procedures in obtaining competitive pricing of the construction of the helipad; and

WHEREAS, the Town Board has determined that this project is in the best interest of its citizens to construct such helipad.

NOW THEREFORE BE IT RESOLVED that the Town of Somerset hereby authorizes and directs Chief Hildebrant to execute necessary measures in conjunction with the Town Board to affect the construction of the helipad at 8719 Haight Road, subject to SEQR (State Environmental Quality Review) review; and

BE IT FURTHER RESOLVED, to award the construction job to the lowest bidder Hy-Tech Concrete, P.O. Box 27, Newfane, NY 14108 for \$ 7,800.00 as per bid submitted; and further provide additional amount of \$2,199.00 for access sidewalk, painting, signage, windsock, and other necessary items to complete the project for a total not to exceed \$9,999.00; and

BE IT FURTHER RESOLVED, the expenditure be taken from the General Fund for the purpose of securing and protecting the safety of all residents and visitors of the Town of Somerset and attendees of the Barker Central School District.

PROCUREMENT POLICY AND BID LIMITS

Attorney Jones stated legislation was passed that raised the limits of the bidding process to \$20,000.00 for purchases from \$10,000.00 and \$35,000.00 for capital projects from \$20,000.00. He suggested the Procurement Policy be updated to reflect these changes via Board resolution. Clerk Connolly stated she would have a resolution for the next Board meeting.

RESOLUTION 59-2011

SEQR REVIEW OF HELIPAD

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 Code Enforcement Officer Hildebrant is authorized to conduct the necessary State Environmental Quality Review for the helipad site with the assistance of the Attorney and Town Engineer as necessary.

RESOLUTION 60-2011

BOARD OF ASSESSMENT REVIEW (BAR) APPOINTMENT

Councilman Wayner recommended Jacquelyn Reynolds for the BAR appointment. He stated that she works for the Real Property Tax Office and has served on the Planning Board. He introduced Mrs. Reynolds.

Mrs. Reynolds stated that she is the microcomputer coordinator for the Niagara County Real Property Tax Office and is not directly involved with the Board of Assessment Review training conducted by that office. She stated that she coordinates with the Assessors and Tax Collectors to prepare the tax bills.

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 Jacquelyn Reynolds is appointed to the Board of Assessment Review to fill the unexpired term of Herbert Meyer, with the term expiring September 30, 2012.

Robert Glidden, Assessor, recommended to the Board to seriously think about expanding the BAR to a five member Board. He stated that most Towns in the County have a five member Board. He said he is concerned about possible sickness with a three member Board and with the update, it will be necessary to have the full Board present for the hearings. He stated there are possibilities of appointing an alternate. Supervisor Meyers asked Attorney Morgan to investigate the law to see what the requirements are for the Board of Assessment Review.

THIRD TURBINE FOR WASTEWATER TREATMENT PLANT

Supervisor Meyers stated the Board is looking at the feasibility of putting a third turbine up at the Wastewater Treatment Plant. He stated they are now at the point where we could get the other two up but we want to make sure we do this properly at the beginning and not add one after the fact. He said the Board has been reviewing the third turbine to bring it up to a three phase system that would seamlessly go into the current three phase system at the plant.

Supervisor Meyers introduced Tim Touhey from Niagara Wind to answer questions of the Board.

Councilman Engert stated the usage totals at the plant have been tracked and the Board is trying to establish the cost and savings involved. He asked Mr. Touhey what the cost implications will be and the possible savings to the Town.

Mr. Touhey stated the current project is utilizing NYSERDA funds that have certain requirements such as the Davis/Bacon Wages Act that increases the cost of the project. He stated the Davis/Bacon Wages Act would not be required if an additional turbine were added in a separate project. He stated the current project cannot be amended under the federal law. He said there could be savings if a third turbine were added, including energy savings. He stated the energy savings on the current project is 18% of usage with another 9% savings by adding another project to total 27% overall energy savings at the wastewater treatment plant. He said if an additional turbine was put in now, you would realize savings with the costs of trenching, equipment usage and manpower.

Attorney Jones stated the second project would be subject to NYS labor laws to pay the prevailing wage.

Mr. Touhey stated because of the Davis/Bacon requirement, they estimate that the cost of a second project would be \$5,000.00 under the current federal project. He stated the Town's cost for all three turbines would be \$49,000.00, with this project being \$35,000.00.

Superintendent Denny stated that \$16,679.40 has been spent to date on the two turbines and questioned where the money is in the budget, with another \$6,000.00 to be spent that is also not budgeted.

Discussion ensued regarding where the money is coming from, what budget line, what the money has been spent on, the years required for payback, the original 10% anticipated costs of the project, and possible duplication of services,

Engineer Roeseler stated there was no duplication of services. He said the project had to be bid and the SEQR prepared. He stated the cost was not included as part of the NYSERDA program, as the Engineers that oversee the NYSERDA program said bidding was required and not included as part of the program.

Councilman Engert stated that when the third turbine was presented by Tom Fleckenstein, he indicated there was an opportunity to spread the savings to the highway department and town hall because of remote net metering legislation that has not passed the State Legislature at this point.

Engineer Roeseler stated the Wastewater Treatment Plant will be using all the power.

Supervisor Meyers stated these turbines are not going to produce enough power to cover all the buildings. He questioned if it was necessary to bid the project when we already have a company that can do the project.

Attorney Jones stated that the third turbine would be considered a separate project and would have to be rebid with SEQR review being done again to some extent. He stated that the Board could standardize the bid.

Extensive discussion continued regarding the bidding process, total project cost, possible change order, moving forward with the two turbines, economics of scale, long term investment and payback being a minimum of 9 ½ years, cash flow analysis with operation and maintenance costs, life span of the units, decommissioned costs, where the additional money will be coming from, estimated engineering costs for the third turbine, possible costs for engineering services during construction, moving forward with the current project, and timeframe for construction if a third turbine is going up.

Councilman Jansen asked if NYS is still supporting remote metering.

Mr. Touhey stated that Mr. Fleckenstein has met with both houses and has been assured that the bill will be passed this year.

Councilman Jansen stated that she would like to see something that will benefit all residents.

RESOLUTION 61-2011

BUDGET AMENDMENT

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 following budget amendment is approved:

DEBIT		CREDIT	
A1990.4	\$ 9,999.00	A3620.4	\$ 9,999.00

PUBLIC COMMENT

Jackie Reynolds asked if the helipad will be cleared of snow.

Chief Hildebrant stated that it will be maintained.

James Hoffman reported on the headway he has been making regarding the fees that are imposed on AES regarding the greenhouse gas initiative. He stated that the Chairman of the Niagara County Industrial Development Agency wrote a letter to the Governor in January, with Senator Maziarz helping to write the letter. Mr. Hoffman stated that no one is following up on the letters and he has received a commitment from the County that they will be sending a letter to the Governor. He asked the Town Board to support this effort.

Supervisor Meyers stated there are two other major issues that include:

1. The requirement to building cooling towers at the cost of \$100 million;
2. DEC has aggressively fined every coal fired plant.

Herbert Meyer, Mayor of the Village of Barker, stated that the Police Department has been moved to a vacant building and the needed repairs have exceeded budget. He requested the Town split the expenses of the repairs and he would like another \$7,750.00 for the building. He stated that he would like to meet with the Board.

Discussion ensued regarding the expenses and request.

Norman Jansen stated he took a tour of the Fire Company and thanked the members for the information.

WATER/SEWER RATES

Superintendent Denny stated that he has been working on organizing all the water and sewer rates to have them into a consolidated format. He stated that he will provide the information to the Board as there will need to be two separate public hearings. He stated no rate increases are proposed. He said this is basically a housekeeping move as the rates are recorded in several areas and he stated he wants to eliminate any confusion like there has been in the past.

Councilman Wayner requested information be provided to the Board prior to Town Board meetings for their full consideration.

RESOLUTION 62-2011

AUDIT OF CLAIMS

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 the bills, having been reviewed by the Town Board, are authorized for payment in the following amounts:

General Fund	No. 113 through No. 156	\$ 30,202.87
Highway Fund	No. 34 through No. 51	\$ 29,318.49
Sewer Fund	No. 33 through No. 50	\$ 10,021.99
Water Fund	No. 28 through No. 47	\$ 33,006.68

On a motion of Councilman Alt, seconded by Councilman Wayner the meeting was adjourned at 8:54PM subject to the Call of the Clerk. Carried unanimously.

Rebecca A. Connolly, MMC
Town Clerk