

REGULAR MEETING  
OCTOBER 9, 2012

The 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 9<sup>th</sup> day of October 2012.

Present:      Daniel M. Engert ----- Supervisor  
                 Randall J. Wayner ----- Councilman  
                 Gary R. Alt ----- Councilman  
                 Robin R. Jansen ----- 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

Absent:        Jeffrey M. Dewart ----- Councilman

Attended by: Mark Remington, DCO & Code Enforcement Officer; Dominic Penale Jr., Assessor, Andrew Reilly, Engineer and 14 residents

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

**PUBLIC HEARING – COMPREHENSIVE PLAN**

Notice of public hearing duly published in the Lockport Union-Sun and Journal on September 14, 2012 with same notice being posted at the Town Hall and on the website on same date.

Supervisor Engert called the public hearing to order at 7:01PM.

Clerk Connolly read the notice of the hearing. Clerk Connolly reported a written communication was received from James Hoffman regarding the multiple use plan being included in the comprehensive plan in detail.

Supervisor Engert stated the revised comprehensive plan is a roadmap for the future, guiding the Boards for development of our town.

Andrew Reilly, Engineer from Wendel Duchscherer, gave an overview of the steps that were taken to update the 2003 comprehensive plan. He said the plan contains recommended actions for the future growth of the community. He said the Planning Board worked on the plan; a public meeting was held to gather information and visions of the community with comments being incorporated into the draft plan; and takes into account the regional plans that were developed by the Economic Development Council.

Supervisor Engert stated the public has been given opportunities to interact and that this is a good document.

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Chris Czelusta stated the Village of Barker also worked with the Planning Board on the plan.

James Hoffman said as a Planning Board member he thanked Wendel for their approach and leadership during the process. He stated that we are a lakeshore community and would like more emphasis on that in the plan. He said that he would like to hold on action on the plan to take into consideration the report on the former Barker Chemical property.

Supervisor Engert said a communication was received from Amy Fisk regarding the former Barker Chemical property and is currently being reviewed by the Town Attorney.

With all persons desiring to be heard, Supervisor Engert closed the hearing at 7:14PM.

REGULAR MEETING

Supervisor Engert opened the regular meeting at 7:15PM.

**INTRODUCTION OF ASSESSOR**

Supervisor Engert introduced Dominic Penale Jr. to the Board and public as the Assessor for the Town.

Dominic Penale stated that he has been in the Assessor field for over 30 years, serving as the Assessor for the City of Niagara Falls and for six years as the shared Assessor for the Town of Wilson. He stated he is currently the real estate appraiser for the Town of Wilson and has a consulting firm. He said he is a certified assessor advanced and a certified real estate appraiser. He said he has been involved in 10 revaluations and is available at anytime to the residents.

RESOLUTION 104-2012

**APPROVAL OF THE MINUTES**

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

ADOPTED: Ayes 4      Engert, Wayner, Alt, Jansen  
              Nays 0

Resolved the minutes of the previous meetings are approved.

RESOLUTION 105-2012

**APPROVAL OF SUPERVISOR'S MONTHLY REPORT**

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

ADOPTED: Ayes 4      Engert, Wayner, Alt, Jansen  
              Nays 0

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

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MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer  
Dog Control Officer  
Police Report

COMMUNICATIONS:

Clerk Connolly reported that she had forwarded the monthly letter from Time Warner to the Board regarding channel lineup.

Clerk Connolly stated a communication was received from Andrew Reilly, Wendel Duchscherer, regarding the agencies and municipalities that were notified of the Comprehensive Plan. She reported no communications have been received from State Agencies or neighboring communities regarding the Comprehensive Plan. Supervisor Engert reported that John Belson, Town of Yates Supervisor, was in attendance.

RESOLUTION 106-2012

**DEMOLITION OF 8681 LAKE ROAD**

Supervisor Engert said bids were received for the demolition of 8681 Lake Road from:

<u>Name of Bidder and Address</u>	<u>Amount</u>
Apollo Dismantling Services 4511 Hyde Park Blvd., Niagara Falls, NY 14305	\$ 23,222.00
Mark Cerrone, Inc. 2368 Maryland Avenue, Niagara Falls, NY 14305	\$ 28,884.00

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

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

Resolved the bid for the demolition of 8681 Lake Road from Apollo Dismantling Services, 4511 Hyde Park Blvd., Niagara Falls, NY 14305 for \$23,222.00 is accepted.

Superintendent Denny said he would like to have a demolition meeting with the contractors to discuss how the water and sewer lines will be severed.

RESOLUTION 107-2012

**AIR QUALITY CONTROL FOR 8681 LAKE ROAD**

Supervisor Engert stated it is the responsibility of the town to retain a company for air quality control for the project due to asbestos being on the property.

Attorney Jones said it is Rule 56 of the Labor Law that the sampling of the air be performed prior to the demolition, during the course of the demolition and then at the end of the demolition. He said he is obtaining proposals, with the demolition taking about 3 days. He estimated the cost would be around \$2,000.00.

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

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

Resolved the Supervisor is authorized to execute a contract with an air quality control contractor for an amount not to exceed \$4,000.00.

**COMPREHENSIVE PLAN**

Andrew Reilly said the plan has been submitted to the Niagara County Planning Board and they will meet next week. He stated the other agencies comments should be received within 10 days.

Supervisor Engert asked Councilman Alt and Councilman Jansen to meet with two members of the Planning Board to review the comments received within 15 days. He asked that Planning Board Chairman Hotaling appoint two members of the Planning Board to the committee. He asked Engineer Reilly to coordinate with the committee on a mutually agreed meeting date.

**ZONING REVISIONS UPDATE**

Attorney Jones reported that he is working with Andrew Reilly regarding any zoning changes and the zoning map.

Mr. Reilly said there are some items that have been identified to fix up the code for procedural items and then they will work on the zoning map. He said every time you change the code it becomes expensive.

Attorney Jones said the SEQR and wetlands regulations should be eliminated as they are outdated and conflict with state regulations.

RESOLUTION 108-2012

**CHANGE IN STRUCTURE OF PLANNING BOARD – Proposed Local Law**

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

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

Resolved a public hearing be held on November 13, 2012 at 7:00PM on the proposed local law to reduce the Planning Board from seven (7) members to five (5) members.

RESOLUTION 109-2012

**DELETION OF ALTERNATE MEMBERS FOR THE PLANNING/ZONING BOARDS – Proposed Local Law**

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

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

Resolved a public hearing be held on November 13, 2012 at 7:00PM on the proposed local law to eliminate alternate members for the Planning Board and the Zoning Board of Appeals.

RESOLUTION 110-2012

**RECYCLING – EVERY OTHER WEEK**

Supervisor Engert stated bids were opened and received from:

<u>Name and Address of Bidder</u>	<u>Amount</u>
Cascade Engineering Inc. 4950 37 <sup>th</sup> Street SE, Grand Rapids, MI 49512	\$43.00 – 64 gal. \$56.00 – 96 gal.
Rehrig Pacific Company 1738 West 20 <sup>th</sup> Street, Erie, PA 16502	Sent a letter choosing not to bid
Toter P.O. Box 5338. Statesville, NC 28667	Sent a letter choosing not to bid

Councilman Wayner stated that he recommends purchasing 890 – 64 gallon carts and 30 – 96 gallon carts from Cascade Engineering Inc. He said they will be distributed and tracked, similar to UPS tracking. He said the containers will be assembled as they are distributed by Cascade personnel. He stated there will be a newsletter sent to residents along with an open house to be held. He said anticipated delivery of the carts will be in mid November with the Town being broken down into 2 zones.

Supervisor Engert said the goal is to reduce the refuse contract for 2013 by 4% and gradually more over the next three years. He said the more that we collect in tonnage; the more savings will be realized.

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

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

Resolved the bid received from Cascade Engineering Inc., 4950 37<sup>th</sup> Street SE, Grand Rapids, MI 49512 for the purchase of wheeled recycling carts at \$43.00 per 64 gallon cart and \$56.00 per 96 gallon cart is accepted.

RESOLUTION 111-2012

**WEBSITE**

Councilman Wayner acknowledged the committee including Dale Howard, Tracy Carmer and Clerk Connolly for the time spent on webinars and investigation of web hosts. He said the committee recommends Virtual Town Hall to host the Town website as they have numerous municipal sites, training, and host and site support 24/7 for emergencies along with a secure data center in Maine. He extensively went over the benefits and details of the website being hosted by Virtual Town Hall.

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

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

Resolved Virtual Town Hall is retained to develop and host the Town website as per proposal.

RESOLUTION 112-2012

**2013 PRELIMINARY BUDGET**

Supervisor Engert stated that the 2013 budget has been prepared with a 21% reduction in departments. He said due to the 44% reduction of the PILOT revenues from the power plant it was important that the budget reflected cuts. He said there was a significant reduction in assessed valuation in the special districts and that has been reflected in the budget.

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

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

Resolved the tentative budget is adopted for 2013 and a public hearing will be held on the budget and fire contract on October 30, 2013 at 6:00PM.

RESOLUTION 113-2012

**UNPAID WATER AND SEWER BILLS PLACED ON TAXES**

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 any unpaid water and sewer bills along with any town charges be placed on the county taxes for 2013.

RESOLUTION 114-2012

**AUTHORIZE EXPENDITURE FOR RECYCLING CARTS**

Supervisor Engert asked for authorization to purchase the wheeled recycling carts from excess revenues.

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

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

Resolved Supervisor Engert is authorized to purchase the wheeled recycling carts from excess 2012 revenues.

RESOLUTION 115-2012

**EXTRA RED RECYCLING BINS**

Superintendent Bigelow reported there are approximately 200 red recycling containers at the highway garage and asked what the Board would like done with them.

Discussion ensued regarding how the containers could be distributed.

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

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

Resolved the department heads determine the best method to hand out the extra red recycling containers.

RESOLUTION 116-2012

**AUDIT OF CLAIMS**

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

ADOPTED Ayes 4 Engert, Wayner, 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. 369 through No. 368	\$ 34,029.94
Highway Fund	No. 109 through No. 122	\$ 14,892.72
Sewer Fund	No. 108 through No. 114	\$ 2,579.81
Water Fund	No. 96 through No. 102	\$ 41,044.74

**PRIVILEGE OF THE FLOOR**

Jon Hotaling asked what happens with the recycling containers if the refuse company is changed.

Supervisor Engert stated that we are mandated by law to have a recycling program and that all refuse companies pick these containers up. He said they are standardized.

James Hoffman asked about the Kenyon property. (8516 Lake Road)

Supervisor Engert said Code Enforcement Officer Remington contacted Mr. Kenyon and they have sent a maintenance staff down to clean up the property, secure the building and they are considering demolition in the Spring.

Jon Hotaling said he talked to the maintenance crew for that property and the demolition bids will include soil remediation.

Herbert Linderman asked what the reason is for the Planning Board and Zoning Board by-laws and the change in the size of the Boards.

Supervisor Engert said a study was done regarding the size of the Planning Board and found that the Town of Somerset's board was one of the largest in the three counties of western New York. He said rules of procedures create an efficient way of conducting meetings and asked those Boards to review the suggestions and comment with what they would like to work with. He stated there is no timeline and welcomes the Boards' suggestions.

Joe Sadjak asked when the property at 8681 Lake Road is demolished will the property be cleaned up and asked who will take over the property.

Attorney Jones said the garage in the back and the vehicles are separate violations. He said the demolition contractor will remove anything that is in his way.

Supervisor Engert said anything that is left will be subject to separate violations and the Code Enforcement Officer Remington will handle that.

Attorney Jones said the bank is trying to take title to the property through foreclosure. He said the town will have a tax lien on the property.

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James Hoffman reported the Planning Board is holding a public hearing on October 10<sup>th</sup> on the application of NYSEG to construct a 300 foot utility telecommunications tower on their property that is surrounded by the power plant property.

Chris Czelusta and James Hoffman reported on the visit to the proposed multiple use site at the power plant and thanked Supervisor Engert for setting up the visit.

On a motion of Councilman Wayner, seconded by Councilman Alt, the meeting adjourned at 8:43 P.M. subject to the Call of the Clerk. Carried unanimously.

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Rebecca A. Connolly, MMC  
Town Clerk