

REGULAR MEETING
DECEMBER 13, 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 13th day of December 2011.

Present: Richard J. Meyers ----- Supervisor
 Randall J. Wayner ----- Councilman
 Daniel E. Engert ----- Councilman
 Gary R. Alt ----- Councilman
 Robin R. Jansen ----- Councilman
 Tracy L. Carmer ----- Deputy 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 12 people and 6 BCS students

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

RESOLUTION 135-2011

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 previous meeting are approved as submitted.

RESOLUTION 136-2011

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

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 the Supervisor's Monthly report be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement
Police Department
Dog Control Officer
Assessor

Attorney Jones reported the retainer agreement with his firm expires at the end of December.

COMMUNICATIONS:

RESOLUTION 137-2011

5K and Fun Run

Supervisor Meyers read a request from Eliza Dewart to conduct a 5K and Fun Run as her Senior Project.

Eliza Dewart explained the run will start at the Barker Fire Hall in memory of a classmate Jacob Cogar on January 21, 2012 with all profits being donated to the Women & Children's Hospital of Buffalo.

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 Eliza Dewart is authorized to use town roads on January 21, 2012 to conduct a 5K Fun Run.

RESOLUTION 138-2011

RIDES FOR ROSWELL

Supervisor Meyers stated a request has been received for the annual Ride for Roswell to be held on June 23, 2012 for use of town roads.

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 Ride for Roswell organization is authorized to use town roads on June 23, 2012.

RESOLUTION 139-2011

LOWER LAKE ROAD BRIDGE

Randy Roeseler stated there are four items that need to be addressed:

1. Final payment for the construction contractor.
2. Need to reallocate the engineering portion of the project costs. He said the costs have not changed.
3. Line item adjustment to pay the payment request upon contractor closeouts.
4. Final local share of the cost of the bridge.

He said the bridge is done and 90% has been paid for by grant monies. He went over the entire costs in detail and said there is a net change to the contract of \$33,354.33 based on adjusted quantities found out in the field, including rock excavation that had to go down further down than originally anticipated and the bridge being 3 ½ feet wider than what was originally planned. He said that increased the cost by approximately \$15,000. Mr. Roeseler explained the fabrication of the box culvert and that a wrong

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dimension was used. He said the plans were reviewed at all three engineering levels with no one picking up the mistake.

Attorney Jones asked if there was an advantage to having a wider bridge.

Michael Leydecker said there is more cover over the water line and there are some benefits on the road.

Discussion ensued regarding what would have happened if they were stopped at the time it was discovered and who is responsible to pay for the \$15,700 increase.

Mr. Roeseler stated there needs to be reallocation of the under runs of the time and expense items to the inspections. He said they do not anticipate using all of that but there has been overruns on the inspection side.

Mr. Roeseler said there needs to be a line item adjustment so a budget amendment needs to be made. Superintendent Bigelow stated that there was not enough money budgeted for the bridge so there has to be an amendment.

Mr. Roeseler stated that a letter to the state has been crafted for Superintendent Bigelow to send requesting additional funds to cover the increased construction costs. He said the State has not said no, but they will look at the request.

Extensive discussion ensued regarding paying for something that is not the fault of the Town; engineering responsibility; the Town's recourse if the bill is not paid; the cost of litigation; the cost to the Town if the State does not comes through with funds; withholding payment for further discussion with contractor; and making partial payment of the bill.

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 net change request of \$17,654.33 be made for a total amount of \$152,212.58 being authorized for payment to CATCO reserving payment of the \$15,700.00 in dispute.

POLICE CONTRACT

Councilman Engert said the Board received a proposed contract from the Village of Barker and stated there were concerns about the amount (\$50,000.00) requested by the Village. He stated that there has been no agreement reached on the issues.

Councilman Alt stated that he would like to see the Town Board have a say in the hours and coverage.

Councilman Wayner stated he thought there was significant progress made after Councilman Engert and Chief Annable met, however is disappointed that it has gone nowhere. He stated the costs of police coverage since he became a Councilman has substantially increased and does not feel confident that a contract for police services can be signed at this time.

Supervisor Meyers said it may be best to try to extend the contract to the year end of the Village budget to buy time to work out an agreement.

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Extensive discussion ensued regarding moving forward; advantage of extending the contract for a few months; other options for police coverage; possibility of a public hearing to get the input from the public; the cost of the service; lack of response from the Sheriff's Dept. and Troopers; specifics in the contract; discrepancy of dollar amounts that have been used for discussion; the need for the Boards to sit down together to work out an agreement; the dollars requested from the Village being based on the mileage in the town versus the village and fines that the town receives from the use of the police department; Town adjudicating Village cases and Town expenses associated with that; the need for an official response to the \$50,000 contract the Village has proposed; and the expiration of the contract on December 31, 2011.

Supervisor Meyers said if need be the Board will hold a special meeting to resolve the matter.

RESOLUTION 140-2011

ANNUAL AUDIT

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 Audit Committee, consisting of Councilman Wayner and Councilman Engert, perform the year end audits of the Town Clerk, Code Enforcement Officer, Supervisor, Justice and Tax Collector.

RESOLUTION 141-2011

BUDGET AMENDMENTS

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

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

Nays 0

Resolved that as provided in Section 107 and 115 of the Town Law, the Supervisor of the Town of Somerset is hereby authorized to expend from the unexpended balances or surplus revenues such sums as may be necessary to cover amounts by which the actual expenses were incurred in 2011 in any amount exceeded the amount budgeted.

RESOLUTION 142-2011

PREPAYMENT OF BILLS

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 all bills incurred for 2011 are authorized to be pre-paid.

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RESOLUTION 143-2011

ENCUMBRANCES

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 funds for invoices of goods not received for 2011 are encumbered.

RESOLUTION 144-2011

KENNEL CONTRACT

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 contract with Fort Hyde Kennels for kennel service for 2012 at \$4,320.00 per year is approved.

RESOLUTION 145-2011

SALARIES FOR 2012

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 salaries for 2012 as budgeted are approved effective January 1, 2012.

RESOLUTION 146-2011

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

General Fund	No. 436 through No. 476	\$ 53,469.35
Highway Fund	No. 145 through No. 164	\$ 13,466.44
Sewer Fund	No. 143 through No. 159	\$ 41,992.56
Water Fund	No. 138 through No. 152	\$ 36,592.13

WIND TURBINES

Superintendent Denny reported that Mr. Fleckenstein said he would come back and retension the wires within 30 days. Superintendent Denny said it has been 40 days and the work has not been done.

Supervisor Meyers said he will call Mr. Fleckenstein.

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RESOLUTION 147-2011

PAY PHONE IN TOWN PARK

Superintendent Denny said Verizon has transferred the pay phone to another company and they have increased the cost by \$10.00 per month. He said in this day with people having cell phones, he would like to have the phone removed from the park.

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

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

Resolved that Superintendent Denny is authorized to have the pay phone removed from the Town Park.

RESOLUTION 148-2011

REAPPOINTMENT TO PLANNING BOARD

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 Jon Hotaling is reappointed to the Planning Board for a seven year term with the term expiring 12/31/18.

RESOLUTION 149-2011

APPOINTMENT OF PLANNING BOARD CHAIRMAN

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 Jon Hotaling is appointed Chairman of the Planning Board.

PUBLIC COMMENT:

James Hoffman addressed the Board the following:

1. He stated that Phil Kirpen, Vice Chair for Americans for Prosperity US will be at the Clarence Town Hall on December 22, 2011 at 7:00 PM to discuss the Regulatory Agenda of the federal and state governments. He said he will forward the email to the Board.
2. He is still trying to contact Senator Maziarz regarding the RGGI controls. He said there are two bills in draft from the 137th District and he would like him to get involved.

Supervisor Meyers announced on Thursday, December 15th at 7:00PM, a gentleman will be available at the Town Hall from NYSEDA (New York State Energy Research and Development Agency) to discuss money that is available for home energy improvement.

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Supervisor Meyers said that he has been working with the Governor's Committee for Economic Development and the Western New York package that was put together was selected to receive \$100.3 million for economic development.

Councilman Wayner thanked Supervisor Meyers for his service to the town.

On a motion of Supervisor Meyers, seconded by Councilman Alt, the meeting was adjourned at 8:39PM. Carried unanimously.

Tracy L. Carmer
Deputy Town Clerk