

REGULAR MEETING
AUGUST 9, 2023

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 August 2023.

Present: Jeffrey M. Dewart----- Supervisor
 Jon Hotaling ----- Councilman
 Gail Damon ----- Councilwoman
 Fred Leuer ----- Councilman
 Tracy L. Carmer----- Town Clerk
 Michael M. Flint ----- Supt. of Highways
 Jesse J. Green ----- Supt of Water/Sewer/Grounds
 Mindy Austin ----- Confidential Asst. to the Supervisor

Absent: Robin R. Jansen ----- Councilwoman
 David Haylett----- Attorney
 Brian Sibiga ----- Engineer

Audience: 3 residents

Supervisor Dewart called the meeting to order at 6:00PM with the Pledge to the Flag and a prayer for guidance.

RESOLUTION 75-2023

APPROVAL OF THE MINUTES

On a motion of Councilman Hotaling, seconded by Councilwoman Damon, the following resolution was

ADOPTED: Ayes 4 Dewart, Hotaling, Damon, Leuer
 Nays 0

Resolved the minutes of the previous meeting on July 12, 2023 are accepted as submitted.

RESOLUTION 76-2023

APPROVAL OF SUPERVISOR'S REPORT

On a motion of Councilwoman Damon, seconded by Councilman Leuer, the following resolution was

ADOPTED: Ayes 4 Dewart, Hotaling, Damon, Leuer
 Nays 0

Resolved the Supervisor's Report for July 2023 is accepted as submitted.

MONTHLY REPORTS RECEIVED

Supervisor's Monthly Report
Police
Code Enforcement

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COMMUNICATIONS: Charter Communications notified us that they are eliminating the SEC Network feed. Clerk Carmer also advised that we received apology letters from a couple of young residents who did some damage in the park.

RESOLUTION 77-2023

TRAILER PURCHASE FOR WATER DEPARTMENT

On a motion of Councilman Hotaling, seconded by Councilwoman Damon, the following was

ADOPTED	Ayes	4	Dewart, Hotaling, Damon, Leuer
	Nays	0	

WHEREAS, the Town of Somerset Water Department desires to purchase a new equipment trailer; and

WHEREAS, the estimated purchase price of a new equipment trailer is greater than \$5,000.00 but less than \$20,000.00; and

WHEREAS, the Superintendent of the Water/Sewer/Grounds Department received four (4) written quotes for the equipment trailer; and

WHEREAS, the lowest written quote received was in the amount of \$7,011.00 submitted by JPR Trailer Sales; now therefore be it

RESOLVED, that the Town of Somerset Superintendent of Water/Sewer/grounds is hereby authorized to purchase a 2023 Load Trail 83"X20' equipment trailer, black, 14k, tandem axle as provided for in the written quote dated July 20, 2023 from JPR Trailer Sales in an amount not to exceed \$7,011.00.

RESOLUTION 78-2023

TIRE RECYCLING

On a motion of Councilman Hotaling, seconded by Councilman Leuer, the following was

ADOPTED	Ayes	4	Dewart, Hotaling, Damon, Leuer
	Nays	0	

WHEREAS, the Town received proposals for small and large tire recycling from three separate vendors; and

WHEREAS, the lowest responsible quote for recycling passenger and light commercial truck tires was received from Modern Disposal at the set rate of \$115 per ton and \$875.00 per load pick up; and

WHEREAS, the lowest responsible quote for recycling agriculture/oversize tires was received from Geiter Done of WNY, Inc. in the amount of \$285 per ton.

NOW THEREFORE, BE IT RESOLVED, that the tire recycling agreement for passenger and light commercial truck tires be awarded to Modern Disposal at the set rate of \$115/ton and \$875.00 per load; and be it further

RESOLVED, that the tire recycling agreement for large tires be awarded to Geiter Done of WNY, Inc. at the set rate of \$285/ton; and be it further

RESOLVED, that the Water Superintendent and Town Supervisor are authorized to execute any and all documents in such form as is satisfactory to the Town Supervisor and Town Attorney, and take whatever other actions may be necessary to give effect to this resolution.

RESOLUTION 79-2023

EMERGENCY CULVERT REPAIR

On a motion of Councilman Hotaling, seconded by Councilwoman Damon, the following was

ADOPTED	Ayes	4	Dewart, Hotaling, Damon, Leuer
	Nays	0	

WHEREAS, on August 3, 2023, Brian Sibiga, PE of Wendel, the Town's consulting engineer issued a report advising that in late July 2023, the Town of Somerset culvert located at 8763 Lakeview Drive experienced a complete failure in the pipe resulting in a hole and split of the culvert pipe, which would endanger the health and safety of residents; and

WHEREAS, the immediate repair of the culvert is necessary to ensure that storm water is properly conveyed and to protect nearby properties from potential flooding; and

WHEREAS, without an emergency declaration, the Town would not be able to complete the emergency repair until 2024; and

WHEREAS, the Town received a proposal from Precision Trenchless LLC, to clean, televise and repair the culvert with a 42" Oval UV CIPP liner and provide bypassing of any flows during construction in the amount of \$104,886.50.

NOW, THEREFORE, BE IT RESOLVED, that in reliance upon said consulting engineer report, this board finds that a public emergency existed arising out of an unforeseen occurrence or condition whereby circumstances affecting the life, health and safety of property residents of the Town, which required immediate attention and could not await competitive bidding and thus constituted an emergency situation pursuant to General Municipal Law Section 103 (4), and be it further

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RESOLVED, that the Town Supervisor be and hereby is authorized and directed to contract with Precision Trenchless LLC in the amount of \$104,886.50 for cleaning, televising and repairing the culvert with a 42" Oval UV CIPP liner and provide bypassing of any flows during construction; and be it further

RESOLVED, that the requirements for competitive bidding for said repairs be dispensed with.

RESOLUTION 80-2023

OPPOSITION TO SENATE BILL S-139B (REQUIREMENTS FOR JUDGES)

On a motion of Councilman Leuer, seconded by Councilwoman Damon, the following was

ADOPTED	Ayes	4	Dewart, Hotaling, Damon, Leuer
	Nays	0	

WHEREAS, New York Senate Bill number S-139B was passed in the most recent legislative session, which, if adopted by the NYS Assembly and signed by the Governor, would have required that all Judges presiding in the 100 largest Town and Village Courts in New York State, to be licensed to practice law in New York State, and to have been admitted to the New York State Bar for at least five years, and,

WHEREAS, the 12 Town and Village Courts in Niagara County are part of the nearly 1,200 Justice Courts in the State of New York that collectively handle well over 1 million cases each year.

WHEREAS, the 12 Town and Village Courts in Niagara County generate over \$1.6 million dollars for the towns and villages in Niagara County.

WHEREAS, the Town & Village Courts are known as the "Courts Closest to the People" and have broad jurisdiction, presiding over civil and criminal matters, thereby performing a vital role in the New York State Unified Court System.

WHEREAS, the Town/Village Courts of Niagara County are a vital service to our residents and to the Niagara County community as a whole.

WHEREAS, the 23 Justices in Niagara County's Town and Village Courts have pledged to be ever mindful of their neutrality and impartiality, and render equal justice to all, while continually adhering to the judicial rules of ethics and pronouncements of the New York State Commission on Judicial Conduct.

WHEREAS, the Justices are required to be on-call 24 hours a day, 365 days a year to sign arrest and search warrants, perform arraignments, and issue orders of protection.

WHEREAS, the Justices of Town and Village Courts ensure that the rights afforded to defendants by the Constitutions of the United States and of the State of New York are provided and protected.

WHEREAS, the Justices of Town and Village Courts preside over trials involving misdemeanor and violation level offenses, thereby ensuring that the victims of those offenses can be heard in an available and accessible forum.

WHEREAS, the Town and Village Courts provide a venue for citizens to pursue a low-cost and efficient procedure for individuals to resolve civil disputes and landlord/tenant matters.

WHEREAS, the Town and Village Justices preside each morning and evening, including on weekends and holidays at the Niagara County Arraignment Part ('CAP') conducted in the County Jail, that ensures that arrested citizens are promptly afforded legal representation, the opportunity to plead to alleged charges, and to be processed for release, bail, or incarceration.

WHEREAS, the Justices continually strive to improve the administration of justice through participation in mandatory education programs, seminars, meetings of the Niagara County Magistrates Associations and of the New York State Magistrates Association.

WHEREAS, the New York State Office of Court Administration must certify that all justices successfully complete mandatory training both following election and in each subsequent year.

WHEREAS, the New York State's Commission on Judicial Conduct's most recent annual report (2023) identifies that only 13% of the complaints filed against the judiciary were against town and village judges while the remaining complaints were against either "State-paid" judges, (constituting approximately 40% of the judiciary) who accounted for approximately 67% of the complaints received, or against non-judicial entities (20%).

WHEREAS, this Bill attempts to usurp the right of voters to elect those in their communities that they believe to be fair and impartial, and who would best serve their community, whether they be attorney or non-attorney.

WHEREAS, this Bill implicitly suggests that members of a community are incapable of making informed decisions about who should sit in judgment of matters from the straightforward to the highly complex as may arise in their local courts.

WHEREAS, this legislative body views the intention of this Bill is not designed to improve the courts, but rather a blatant and unconscionable attempt by the New York State Bar Association, an organization that represents approximately fifteen percent (15%) of the State's attorneys, to generate increased opportunities for its members, and to dictate who voters choose to serve in our local governments.

THEREFORE, BE IT RESOLVED, that the Governing board of the Town of Somerset strongly, and in unequivocal terms, calls upon both the leadership in the New York State

Senate, in the New York State Assembly, and the Governor, to reject this poorly conceived and hastily fashioned seizure of voters' rights to determine, for themselves, who they would choose to sit as their judges as has been the case for almost two hundred years.

RESOLUTION 81-2023

TPX TELEPHONE SYSTEM

On a motion of Councilman Hotaling, seconded by Councilwoman Damon, the following was

ADOPTED	Ayes	4	Dewart, Hotaling, Damon, Leuer
	Nays	0	

WHEREAS, the Town of Somerset's current contract with TPX Communications is expiring August 30th; and

WHEREAS, the Town Board finds that it is in the public interest to extend the contract so that service is not interrupted while an analysis is performed on the service; now therefore be it

RESOLVED, that the Supervisor is authorized to execute an extension to the current agreement with TPX Communications to provide telephone service and equipment for a period not to exceed 12 months.

RESOLUTION 82-2023

BARKER FIRE DEPARTMENT MEMBER APPLICANT

On a motion of Councilman Hotaling, seconded by Councilwoman Damon, the following was

ADOPTED	Ayes	4	Dewart, Hotaling, Damon, Leuer
	Nays	0	

Resolved that Andrew Applebee's application for membership in the Barker Fire Department is approved.

RESOLUTION 83-2023

CREW LEADER WATER/SEWER/GROUNDS

On a motion of Councilman Hotaling, seconded by Councilwoman Damon, the following was

ADOPTED	Ayes	4	Dewart, Hotaling, Damon, Leuer
	Nays	0	

Resolved that Jim Bukowski is appointed Crew Leader for the Water/Sewer/Grounds Department effective August 9, 2023.

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Supervisor Dewart gave thanks to people and businesses who contributed to our Bicentennial Celebration, with apologies if anyone was missed:

The Bicentennial Committee and those who volunteered to help
Village of Barker for the use of the park and their sound system
Barker Fire Department for hosting the Beer and Band Night, and for running the parade
Faith United Methodist Church for the use of their grounds
Barker Lion's Club for the chicken BBQ
Tops Markets for the donation of water
Dollar General for the donation of ice
Perry's Ice Cream for donating ice cream for the Ice Cream Social
Jesse Farewell for the fly over to start the parade
Sheriff Michael Filicetti and the Sheriff's Color Guard and the Mounted Patrol
Ridge Road Express for donating the use of a bus and driver for a shuttle on Sunday
Heidi Dergle for providing information she gathered from organizing the Barker Cornfest to help us get started
Barker Community Band
Town of Somerset Water/Sewer/Grounds Dept. and Highway Dept. for their help
Village DPW for getting the grounds ready and helping during the event, both at the park and the church
Lakeshore Tree Service for help hanging the banner across the road
Senator Rob Ort
Assemblyman Mike Norris
Legislator Shawn Foti
Barker Mayor Seanna Corwin Bradley
And all of the businesses and people that sent in donations

RESOLUTION 84-2023

MS BIKE-A-THON USE OF BUILDING

On a motion of Councilman Hotaling, seconded by Councilwoman Damon, the following was

ADOPTED	Ayes	4	Dewart, Hotaling, Damon, Leuer
	Nays	0	

Resolved to allow the use of the Town Hall to shelter riders of the MS Bike-A-Thon in case of inclement weather.

RESOLUTION 85-2023

AUDIT OF CLAIMS

On a motion of Councilman Leuer, seconded by Councilman Hotaling, the following resolution was

ADOPTED	Ayes	4	Dewart, Hotaling, Damon, Leuer
	Nays	0	

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Resolved that the bills have been reviewed by the Town Board and are authorized for payment in the following amounts:

General Fund	No. 255 through No. 298	\$ 106,567.89
Highway Fund	No. 74 through No. 85	\$ 15,826.65
Sewer Fund	No. 109 through No. 124	\$ 5,774.83
Water Fund	No. 76 through No. 80	\$ 1,495.99

PRIVILEGE OF THE FLOOR

JIM HOFFMAN thanked everyone who worked on the Bicentennial event. Jim discussed the incomplete application for Somerset Solar; the fact that BCS Solar has still not connected to the grid over a year later; Niagara County is still pursuing back taxes on the power plant property, and current taxes on the data center are not paid; Rails to Trails is still alive; Somerset Energy Storage plans to locate in Niagara County and is likely to push battery storage in Somerset. Jim would like the Town to place a moratorium on Lithium Ion Battery Installations.

Supervisor Dewart stated that the Town was approached for a meeting by a battery storage company but has not heard anything for a couple of months.

NORM JANSEN thanked everyone for the Bicentennial celebration.

On a motion of Councilman Hotaling, seconded by Councilwoman Damon, the meeting adjourned at 6:43 P.M. subject to the Call of the Clerk. Carried unanimously.

Tracy L. Carmer, RMC
Town Clerk