

REGULAR MEETING
OCTOBER 11, 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 11th day of October 2023.

Present:	Jeffrey M. Dewart-----	Supervisor
	Robin R. Jansen -----	Councilwoman
	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
	David Haylett-----	Attorney
	Brian Sibiga -----	Engineer

Absent:

Audience: 12 residents

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

LAKE MARINER PRESENTATION

Jerry Goodenough and Dan Heidemann from Lake Mariner Data Center presented a slide show with the results from a noise study that the company had performed. They stated that the study was performed by an outside company, Sitex, and it was recording for 24 hours on July 27, 2023. They had microphones set up at 4 locations: the main gate, construction gate, corner of Haight Road and Hosmer Road, and Hartland Road (Lower Lake Road). The noise collection collects all noises, including dogs, cars, etc. Jerry explained that the plant currently consists of two buildings that are cooled by fans, and the next two buildings will have static vents instead of fans. Dan explained how the plant works and stated that the fans run consistently, they do not start and stop so they are trying to determine what factors are causing the residents to hear a noise that sounds like it is starting up. They stated that with the winter being cooler, they will be able to reduce the fans during that time. Discussion ensued with residents regarding having the sampling done over 72 hours instead of 24 hours; device placed in open space, not woods; atmospheric conditions affecting the volume; data from Hartland Road not accurate; non-compliance with testing locations and the Environmental Impact Statement stated that it would not be bothersome to the neighbors.

They stated that they are not ignoring it, they are trying to figure it out. A sampling will be taken during the winter over a 72 hour period and Mrs. Salerno agreed to allow a microphone to be placed on their property on Haight Road. Dan said that they will look at whether or not they can lower the fans at night.

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RESOLUTION 93-2023

APPROVAL OF THE MINUTES

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
 Nays 0

Resolved the minutes of the previous meeting on September 13, 2023 are accepted as submitted.

RESOLUTION 94-2023

APPROVAL OF SUPERVISOR'S REPORT

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
 Nays 0

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

MONTHLY REPORTS RECEIVED

Supervisor's Monthly Report
Police Report

COMMUNICATIONS: Charter Communications notified us that they are adding three sports networks and the customers will be allowed to pick one to add to their package.

ENGINEERING UPDATE

Engineer Sibiga introduced Justine Wittcop who met with Superintendent Flint regarding a DEC violation on our underground tank. Superintendent Flint stated that they are waiting for Nature's Way to get back to them.

Engineer Sibiga discussed the wastewater treatment plant lagoon and said that the clean-out sludge cannot go to a farmer's field, so we are looking at an alternative option to include purchasing a drying bed. This will allow us to clean out more often since we can use it throughout time, thus making it more economical. The premise is to eliminate water so there is less weight for trucking.

Wendel is working on getting the Hartland Road Bridge Replacement Project out to bid and is hoping to start construction in the spring.

Engineer Sibiga is also working on a proposal to implement an unfunded mandate regarding cyber security/water safety that is due by the end of the year.

RESOLUTION 95-2023

POLICE SURPLUS AUCTION

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

ADOPTED Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
 Nays 0

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WHEREAS, the Town of Somerset has acquired certain personal property while carrying out service in the public interest; and

WHEREAS, the Town Board has deemed it unnecessary to maintain ownership of personal property of the Town which has become worn out, obsolete or no longer needed; and

WHEREAS, the Town Board desires to dispose of the following surplus property:
2 police seized bicycles

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Somerset, that the Town Board finds and declares that the Town no longer has a use for police seized bicycles; and

BE IT FURTHER RESOLVED, that the Town Clerk is directed to arrange a bid auction for the purpose of selling the bikes; and

BE IT FURTHER RESOLVED, the Town Supervisor is authorized to execute any documents to the highest bidder; and

BE IT FURTHER RESOLVED, the Town Supervisor is authorized to donate or otherwise dispose of the bicycles if no bids are received.

RESOLUTION 96-2023

PUBLIC HEARING FOR LOCAL LAW ON TAX CAP OVERRIDE

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
 Nays 0

RESOLVED, a public hearing will be held by the Town Board of the Town of Somerset on November 8, 2023 at 6:00pm to hear and consider a local law to override the tax levy limit established in General Municipal Law Section 3-c.

RESOLUTION 97-2023

WATER/SEWER/GROUNDS SUPERINTENDENT PAY RATE

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
 Nays 0

RESOLVED, that the Town Supervisor is authorized to execute an agreement with the Town Superintendent of Water/Sewer/Grounds, setting the pay rate for 2024 at \$71,379, and for 2025 at \$74,033.

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RESOLUTION 98-2023

PUBLIC HEARING ON 2024 BUDGET

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
Nays 0

RESOLVED, that the Town Board of the Town of Somerset hereby adopts the Tentative Budget as the Preliminary Budget; and be it further

RESOLVED, that the public hearings on the Town budget shall be held on the 8th day of November, 2023 at 6:00p.m., at the Town Hall, 8700 Haight Road, Barker, NY and the Town Clerk is directed to advertise the same.

RESOLUTION 99-2023

BUDGET WORKSHOP

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
Nays 0

RESOLVED to hold a budget workshop on October 25, 2023 at 6:00p.m. at the Town Hall, 8700 Haight Road, Barker, NY.

RESOLUTION 100-2023

INTERVIEW COMMITTEE

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
Nays 0

RESOLVED, to appoint Councilman Hotaling and Councilwoman Damon to the Interview Committee to interview candidates for a position with the Highway Department starting January 1, 2024.

RESOLUTION 101-2023

RELEVY UNPAID WATER, SEWER AND REFUSE

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
Nays 0

RESOLVED, to direct the Niagara County legislature to re-levy unpaid water, sewer and refuse onto the Town and County tax bill in the following amounts:

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Water: \$ 9,518.88
Sewer: \$ 7,262.17
Re-levy fee: \$ 10,400.00
Refuse: \$ 96.00

RESOLUTION 102-2023

HEATING UNIT REPLACEMENT AT TOWN HALL

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
 Nays 0

WHEREAS, the Town of Somerset desires to replace two existing rooftop heating units at the Town Hall; and

WHEREAS, the cost to replace the two rooftop heating units is estimated to be greater than \$10,000 but less than \$35,000; and

WHEREAS, the Town of Somerset Superintendent of Water/Sewer/Grounds obtained two quotes for the replacement of two rooftop heating units; and

WHEREAS, Tri R Mechanical Services, Inc. submitted the lowest responsible quote in the amount of \$20,215 dated September 13, 2023; now therefore

BE IT RESOLVED, that the Town Supervisor and Town Superintendent of Water/Sewer/Grounds are hereby authorized to contract with Tri R Mechanical Services, Inc. for the installation of two rooftop heating units at the Somerset Town Hall in an amount not to exceed \$20,215.

RESOLUTION 103-2023

BOARD OF ASSESSMENT REVIEW APPOINTMENT

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

ADOPTED: Ayes 5 Dewart, Jansen, Hotaling, Damon, Leuer
 Nays 0

RESOLVED, William Wilson, Jr. is appointed to the Board of Assessment Review with a term expiring September 30, 2028.

SUPERVISOR UPDATES

- The Veteran's Dinner will be taking place on November 12, 2023 at 5:00pm at the Fire Hall
- Work has started on repairing the wall at the cemetery on Quaker Road. Volunteers are welcome.

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- Supervisor Dewart and Councilwoman Jansen met with Bear Peak Somerset BESS regarding battery energy storage on 7 acres at the plant. They told the company that we are not wavering from our law. Supervisor Dewart stated that battery energy storage is not governed by 94(c).

RESOLUTION 104-2023

AUDIT OF CLAIMS

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

ADOPTED	Ayes	5	Dewart, Jansen, Hotaling, Damon, Leuer
	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. 327 through No. 361	\$ 34,621.29
Highway Fund	No. 101 through No. 110	\$ 13,228.02
Sewer Fund	No. 140 through No. 150	\$ 6,477.43
Water Fund	No. 88 through No. 93	\$ 74,453.50

PRIVILEGE OF THE FLOOR

MARCIA RAY asked if Lake Mariner Data is current on their taxes.

Supervisor Dewart stated no, and explained that we will receive cessation money to bridge the loss.

JIM HOFFMAN stated that Niagara County is foreclosing on Lake Mariner Data. Jim then discussed battery storage and said that they are the size of box cars. The firefighting method is to let them burn. The batteries have carcinogens and we will have to create a hazmat team.

DICK RAY stated that the residents have paid a heavy price for the power plant and we need to do better moving forward. Dick's concern is for the Babcock House and stated that we should lock it in so that we have it in the future. Dick also wants the lane by the cobblestone open for residents to have lake access.

BETTY WOLANYK stated that there is a rumor out there that our Town Police are responsible for creating all of the recent marks on the roads from someone peeling out and doing 360's and that we should look into it.

Councilwoman Jansen said that these marks are all over the county, not just in Somerset.

MARCIA RAY asked if there is any update on the solar panel project.

Supervisor Dewart stated that the project is not approved yet and it goes back to ORES again next month.

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KRISTA ATWATER thanked the board for everything they do and for bringing in Jerry and Dan from the plant. Krista also thanked Councilwoman Jansen again for going through the police reports last month. Krista acknowledged the fact that people who are running for office do not attend our meetings.

RESOLUTION 105-2023

ENTER EXECUTIVE SESSION

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

ADOPTED	Ayes	5	Dewart, Jansen, Hotaling, Damon, Leuer
	Nays	0	

Resolved to enter into executive at 7:22pm to discuss litigation.

RESOLUTION 106-2023

EXIT EXECUTIVE SESSION

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

ADOPTED	Ayes	5	Dewart, Jansen, Hotaling, Damon, Leuer
	Nays	0	

Resolved to exit executive at 7:45pm

On a motion of Councilman Hotaling, seconded by Councilwoman Damon, the meeting adjourned at 7:46 P.M. subject to the Call of the Clerk. Carried unanimously.

Tracy L. Carmer, RMC
Town Clerk