

TOWN BOARD REGULAR MEETING
March 10, 2021

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 10th day of March 2021 via Zoom.

Present: Jeffrey M. Dewart----- Supervisor
 Robin R. Jansen ----- Councilwoman
 Jon Hotaling ----- Councilman
 Gail Damon ----- Councilwoman
 Fred Leuer ----- Councilman
 Tracy L. Carmer----- Town Clerk
 Jonathan D. Dewart ----- Supt of Water/Sewer/Grounds
 Mindy Austin ----- Confidential Asst. to the Supervisor
 David Haylett----- Attorney
 Anthony Serianni ----- Attorney
 Brian Sibiga ----- Engineer

Present via Zoom: 6 residents

Absent: Michael M. Flint ----- Supt. of Highways

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

RESOLUTION 38-2021

APPROVAL OF THE MINUTES

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 the minutes of the previous meetings on February 10, 2021 and February 17, 2021 are accepted as submitted.

RESOLUTION 39-2021

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

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 the Supervisor's Monthly report be accepted as submitted.

COMMUNICATIONS

Clerk Carmer advised that Charter Communications is adding the following channels on or about April 9, 2021: Pets.TV, Recipe.TV, Cars.TV and Justice Central.

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Clerk Carmer read an email from Patty Ray regarding the Police Reform survey. Patty offered suggestions on rewording to make it less confusing and thought it would be appropriate to make the changes and reissue the survey.

Councilwoman Jansen feels the survey is fine the way it is, and Councilman Hotaling suggested adding a comment section at the bottom of the survey.

Supervisor Dewart stated that a committee was put together that consisted of Councilwoman Jansen, Supervisor Dewart, Clerk Carmer, Superintendent Dewart and Superintendent Flint.

Councilwoman Jansen stated that they revised the Town's Emergency Response Plan to include a section for protecting employees during a pandemic, as per a mandate from Governor Cuomo. Everyone has had a chance to review the plan, including the union.

RESOLUTION 40-2021

EMERGENCY RESPONSE PLAN

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

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

Resolved that the final draft of the Emergency Response Plan is approved.

RESOLUTION 41-2021

SOLAR MORATORIUM

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

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

WHEREAS, a Local Law "Establishing a Moratorium on Solar Energy System Installations within the Town for a Period of Six Months" has been introduced; and

NOW, THEREFORE, BE IT,

RESOLVED, that the Town of Somerset Town Board does hereby call for a Public Hearing to be held on the introduced Local Law "Establishing a Moratorium on Solar Energy System Installations within the Town for a Period of Six Months" at the Somerset Town Hall, 8700 Haight Road, Barker, New York 14012 on March 24, 2021 at 4:00pm.

RESOLUTION 42-2021

FLOOD DAMAGE PREVENTION

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

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

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WHEREAS, a Local Law “Amending Chapter 104 of the Town Code – Flood Damage Prevention” has been introduced; and

NOW, THEREFORE, BE IT,

RESOLVED, that the Town of Somerset Town Board does hereby call for a Public Hearing to be held on the introduced Local Law “Amending Chapter 104 of the Town Code – Flood Damage Prevention” at the Somerset Town Hall, 8700 Haight Road, Barker, New York 14012 on March 24, 2021 at 4:00pm.

RESOLUTION 43-2021

JCAP GRANT

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

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

WHEREAS, the State of New York Unified Court System is soliciting applications from local governments under the Justice Court Assistance Program for the 2021-2022 grant cycle to assist local Justice Courts with needed equipment, court operations, training, and improvement of court facilities; and

WHEREAS, the funds available under the New York State Unified Court System Justice Court Assistance Program would enable the Town of Somerset Justice Court to upgrade court operations, equipment, and facilities.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Somerset Justice Court is hereby authorized and directed to apply for a Justice Court Assistance Program grant for the 2021-2022 grant cycle up to \$30,000.00, or the exact amount being requested.

RESOLUTION 44-2021

HIGHWAY TRAILER PURCHASE

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

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

WHEREAS, the Town of Somerset Highway Superintendent has the need to purchase a heavy equipment trailer for the transportation of the Town owned excavator; and

WHEREAS, the Towmaster, Model T-50 is available through Sourcewell Contract# 121918-MNR and said trailer meets the specifications required by the Town Highway Superintendent for a total price of \$30,954.00;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Somerset hereby approves the purchase of a Towmaster T-50 heavy equipment trailer and authorizes the Highway Superintendent to complete the necessary documentation to execute this purchase for a total cost not to exceed \$30,954.00 upon review and approval of the Town Attorney.

Councilwoman Jansen stated that this purchase was budgeted for.

Supervisor Dewart said that it has all of the necessary hookups already.

RESOLUTION 45-2021

WATER TAPPING FEES

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

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

WHEREAS, pursuant to the Somerset Town Code, the Town Board may establish fee rates for water tapping services,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Somerset hereby adopts the following fee schedule for water tapping services within the Town of Somerset:

3/4" Service	1" Service	2" Service
\$1,200.00	\$1,400.00	\$2,251.00

Supervisor Dewart stated that these fees have not been increased in years.

Attorney Haylett advised that the Fee Schedule that we adopted last month had an error on the square footage on the industrial demolition permit and needs to be corrected.

RESOLUTION 46-2021

REVISED FEE SCHEDULE

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, pursuant to the Somerset Town Code, the Town Board may establish fee rates for various applications/permits,

WHEREAS, the Town updated its fee schedule in February 2021, which contained an error; and

WHEREAS, the Town Board desires to correct this error to the industrial demolition permit fee schedule.

NOW, THEREFORE, BE IT RESOLVED:

The Town Board of the Town of Somerset hereby adopts the following fee schedule for applications & permits pursuant to the Town Code of the Town of Somerset, effective immediately.

Attorney Haylett stated that the schedule is the same as last month's but the industrial demolition permit changed from 0-500' to 0-3,000'.

Councilman Leuer asked if the fee schedule is similar to other towns.

Attorney Haylett said that is correct.

Single and 2 family homes (up to 2,000 sq ft)	\$250.00
Single and 2 family homes (over 2,000 sq ft)	\$250.00 + \$0.15 per sf over 2,000
Multiple Dwelling (up to 5 units)	\$300.00
Multiple Dwelling (more than 5 units)	\$300.00 + \$25/unit
Commercial and Industrial Construction	\$300.00 + \$0.20 per sf
Garages (attached or detached)	\$50.00
Accessory Buildings (up to 200 sq ft)	\$50.00
Accessory Buildings (over 200 sq ft)	\$50.00 + \$0.05 per sf over 200 sf (maximum \$500.00)
Additions and Remodels (residential)	\$100.00
Additions and Remodels (commercial/industrial)	\$200.00
Swimming Pools (above or inground) includes inflatable	\$40.00
Wood Stoves and Fire Places	\$25.00
Decks/Porches	\$50.00
Demolition	\$25.00
Industrial Demolition	\$50.00 - 0-3k sq. ft. \$75.00 - 3k-6k sq. ft. \$120.00 - 6k-12k Sq. ft. \$120.00 + \$0.01 per sq. ft. for over 12k sq. ft.
Building Permit Renewal	\$25.00
Re-roofing	\$20.00
Fire Inspections	\$25.00
Variance Application	\$200.00
Special Use Permit Application	\$200.00

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Special Use Permit Renewal	\$0.00
Subdivision: Minor (up to 4 parcels)	\$200.00 + additional costs
Subdivision: Major (5 and more parcels)	\$300.00 + engineering and as required by the subdivision regulation of the Town of Somerset
Communication Towers	\$500.00 + any engineering and legal fees
Wind Turbines	1% cost of construction + any engineering and legal fees
Solar panels	1% cost of construction + any engineering and legal fees
Mobile Home Permit (annual)	\$50.00
Fences	\$20.00
Generators	\$20.00
Document Fee:	
Police Report (copy)	\$5.00

RESOLUTION 47-2021

RESOLUTION OPPOSING THE ADDITION OF SECTION 575-B TO THE REAL PROPERTY TAX LAW IN THE 2022 NYS 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

WHEREAS, the New York Real Property Tax Law – Section 487 – provides a 15-year real property tax exemption for properties on which wind or solar energy projects are built, and

WHEREAS, the real property tax exemption is not mandatory under current law since Section 487 allows local governments to opt out of the exemption and tax wind or solar energy projects based on their full assessed value, and

WHEREAS, if a town does not opt out of the current Section 487, it can require the wind or solar project to enter into a Payment In Lieu of Taxes (PILOT) agreement, and

WHEREAS, under the current Section 487 provision, towns have the ability to negotiate a PILOT with a developer or require that the project pay full taxation based on the assessed value, and

WHEREAS, through the budget process, the State seeks to add Section 575-b to the Real Property Tax Law, which will drastically change the way real property is assessed for wind

and solar energy systems (equal to or greater than 1 megawatt) by establishing a state wide standardized approach for real property tax assessment for wind and solar energy projects, and

WHEREAS, through the budget process, the State also seeks to mandate that the assessed value for solar or wind energy projects will be determined by an income capitalization or discounted cash flow approach that considers an appraisal model created by the New York State Department of Taxation and Finance, and in consultation with the New York State Energy Research and Development Authority, and

WHEREAS, through the budget process, the State-determined assessment will also include a solar or wind energy discount rate that is set annually by the New York State Department of Taxation and Finance, and

NOW, THEREFORE BE IT RESOLVED, the Town of Somerset holds strongly to the right to home rule established in Article 9 of the NY State Constitution, especially with regard to land use and real property taxation, and be it further

RESOLVED, Governor Cuomo has introduced Section 575-b in this year's budget bill in order to abolish the Town of Somerset's ability to assess real property used for renewable energy projects and effectively eliminate any local control currently provided by Section 487, and be it further

RESOLVED, the Town of Somerset is adamantly opposed to the addition of Section 575-b to the Real Property Tax Law in the 2022 NYS budget, and be it further

RESOLVED, the Town of Somerset calls upon New York State Senator Robert G. Ort, New York State Assemblyman Michael J. Norris, and Niagara County Legislator John Syracuse to oppose Section 575-b of the Real Property Tax Law before it is enacted in the budget process.

RESOLUTION 48-2021

POLICE REFORM

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 that a public hearing will be held by the Town Board of the Town of Somerset at Somerset Town Hall, 8700 Haight Road, Barker, New York 14012 on March 24, 2021 at 4:00pm for the presentation of a proposed plan pursuant to New York State Governor Andrew Cuomo's Executive Order No. 203 entitled "New York State Police Reform and Reinvention Collaborative."

Supervisor Dewart stated that the state red flagged the bridge on Hartland Road between Lake Road and Lower Lake Road and there is a Bridge NY grant that we can apply for. The cost to replace the bridge is \$1,430,000 and the grant would cover 95% of the cost so the Town would be liable for \$71,500.

Engineer Sibiga said If we chose a short term solution, the repairs would cost between \$90,000 - \$100,000 and have a life of 10 years so it makes a lot of sense to pursue the grant to replace the bridge because it will have a life of 30 years.

RESOLUTION 49-2021

BRIDGE NY GRANT APPLICATION

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

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

WHEREAS, the Town desires to apply for a grant through the Bridge NY grant program, and

WHEREAS, Wendel submitted a proposal to apply for said grant in an amount not to exceed \$3,500, and

WHEREAS, Wendel's services are exempt from our procurement policy as professional services,

NOW, THEREFORE BE IT RESOLVED, Wendel is authorized and retained to apply for a grant through the Bridge NY program for a grant for the Hartland Road bridge at a cost not to exceed \$3,500.

Councilman Leuer asked if there is a timeline to start the project.

Engineer Sibiga said that the grant program has a pre-application that is due April/May with the final application due May/June. The grant is awarded over the summer and construction would start Spring 2022.

REDI Grant Update

Supervisor Dewart said that due to the many headaches associated with obtaining the property to convert to a park at the power plant (ownership, future LEGACY costs, and the DEC report was not good in our favor) we are going to try to switch the grant to an economic development project.

Engineer Sibiga advised an area that we could utilize the grant would be for the lagoons at the Wastewater Treatment Plant with cleaning, repairing, and adding a lagoon to give our system room to grow. In addition, we would have building modifications to house the new blowers, etc. The REDI grant would cover 95%.

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A sewer line extension was considered for that area, but with unknown use of the Lakeshore Site it might not get used.

Councilman Leuer asked if there is a reason for the increased flow that Engineer Sibiga mentioned. Engineer Sibiga explained reasons for possible high ground water levels.

RESOLUTION 50-2021

AUDIT OF CLAIMS

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

General Fund	No. 69 through No. 109	\$ 48,703.78
Highway Fund	No. 19 through No. 27	\$ 82,510.59
Sewer Fund	No. 19 through No. 31	\$ 3,119.19
Water Fund	No. 14 through No. 23	\$ 3,714.14

RESOLUTION 51-2021

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 session at 6:32P.M. to discuss a personnel issue and consult with the attorney.

RESOLUTION 52-2021

EXIT EXECUTIVE SESSION

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

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

Resolved to exit executive session at 7:15P.M.

On a motion of Councilman Hotaling, seconded by Councilwoman Jansen, the meeting adjourned at 7:17P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk