

**TOWN BOARD REGULAR MEETING**  
**May 11, 2022**

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 11<sup>th</sup> day of May 2022.

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

Absent:       None

Present:       approximately 10, residents and BCS students

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

**SOLAR ON EARTH**

Tysheen Roundtree and Leo Vecchiarello from Solar on Earth discussed their company with the Town Board. They work for solar farms who get credits for installing solar energy projects. Solar on Earth takes these credits and give them back to the community via a credit on your electric bill. The credit is currently 10% and you are locked in at what the rate is when you sign up, so if it gets reduced your credit does not reduce. Mr. Vecchiarello explained the different scenarios based on what category your bill is classified as. He stated that it is a solar cycle product so the credit is higher during the summer months when there is more sun, but it would average to 10%.

Councilwoman Jansen asked if there is a benefit for a resident who already has solar.

Mr. Vecchiarello said no, New York State does not allow "double dipping."

Councilman Leuer asked if they are similar to Nexamp.

Mr. Vecchiarello said that they are more connected to the customer. Nexamp works with their own farms and does a lot through the mail, while Solar on Earth likes to go to the residents directly.

Next steps include getting a peddler's permit, and the town providing copies of their electric bills to Solar on Earth.

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EMERGENCY ELECTRICAL FIX

Engineer Sibiga discussed the need to proceed with an emergency repair. He stated that our pump station infrastructure is from the 70's and has lasted longer than expected. We cannot wait months to get a public bid because if the system fails it will be a public health emergency with sewer backing up into people's basements, water system, etc. The work is eligible to be rolled into the Redi-Grant that we are being awarded. In the meantime we can use ARPA funds, and then reimburse those funds.

Superintendent Dewart described the issues and how the system works.

RESOLUTION 61-2022

PUMP STATION ELECTRICAL FACILITIES EMERGENCY

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

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

**WHEREAS**, a report (attached hereto) has been received from Brian Sibiga, PE of Wendel, the Town's consulting engineer, Dated May 9, 2022 advising that in March 2022, degradation of the electrical facilities and control equipment that operate the pumps at the Town of Somerset Wastewater Treatment Plant, had experienced degradation, and that the degradation was a public health emergency because any failure of the electrical facilities and control equipment would lead to raw sewage being discharged into waterways and residences as well as potential damage to property while temporary pumping systems were installed, which would endanger the health and safety of residents; and

**WHEREAS**, the pumps at the Town of Somerset Wastewater Treatment Plant are responsible for conveying sewage from residents to the Wastewater Treatment Plant, and

**WHEREAS**, lowest received quote for labor and materials to fix the electrical controls was provided by Frey Electric Construction Co. ("FREY") in the amount of \$88,000.00, and

**WHEREAS**, the lowest received quote for labor and materials to replace the cords and cord seals was provided by G.A. Fleet Associates, Inc. ("FLEET") in the amount of \$4,372.80, now therefore be it

**RESOLVED**, that in reliance upon said report, this board finds that a public emergency existed arising out of an unforeseen occurrence or condition whereby circumstances effecting 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 FREY, in the amount of \$88,000.00 for electrical repairs to the electrical controls at the Wastewater Treatment Plant as set forth in their written quote dated April 14, 2022; and be it further

**RESOLVED**, that the Town Supervisor be and hereby is authorized and directed to contract with FLEET, in the amount of \$4,372.80 to repair the cords and cord seals as set forth in their proposal dated April 15, 2022; and be it further

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

RESOLUTION 62-2022

**APPROVAL OF THE MINUTES**

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 minutes of the previous meeting on April 13, 2022 are accepted as submitted.

RESOLUTION 63-2022

**APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT**

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 Supervisor's Monthly report for April 2022 is accepted as submitted.

COMMUNICATIONS

None

RESOLUTION 64-2022

**BRIDGENY GRANT**

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

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

**WHEREAS**, a project for the Bridge Replacement Hartland Road over Fish Creek, P.I.N. 5763.82, (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 95% Federal funds and 5% non-federal funds; and

**WHEREAS**, the Town of Somerset will design, let and construct the Project: and

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**WHEREAS**, the Town of Somerset desires to advance the Project by making a commitment of 100% of the costs of the work for the Project or portions thereof.

**NOW, THEREFORE**, the Town Board, duly convened does hereby

**RESOLVE**, that the Town Board hereby approves the above-subject Project; and it is hereby further

**RESOLVED**, that the Town Board hereby authorizes the Town of Somerset to pay 100% of the cost of \$1,379,910 work for the Project or portions thereof, with the understanding that qualified costs may be eligible for federal-aid, state-aid, or reimbursement from Bridge NY funds; and it is further

**RESOLVED**, that the sum of \$1,379,910 is hereby appropriated from Operating Funds and made available to cover the cost of participation in the above phase(s) of the Project; and it is further

**RESOLVED**, that the Town Board hereby agrees that the Town of Somerset shall be responsible for all costs of the Project which exceed the amount of federal-aid, state-aid, or NY Bridge funding awarded to the Town of Somerset; and it is further

**RESOLVED**, that in the event the Project costs not covered by federal-aid, state-aid, or NY Bridge funding exceed the amount appropriated above, Town of Somerset shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the Town Supervisor thereof; and it is further

**RESOLVED**, that the Town of Somerset hereby agrees that construction of the Project shall begin no later than twenty-four (24) months after award and the construction phase of the Project shall be completed within thirty (30) months; and it is further

**RESOLVED**, that the Supervisor of the Town of Somerset be and is hereby authorized to execute on behalf of the Town of Somerset all necessary agreements, certifications or reimbursement requests for federal-aid and/or state-aid with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Town of Somerset's funding of Project costs and permanent funding of the local share of federal-aid and state aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and it is further

**RESOLVED**, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

**RESOLVED**, this Resolution shall take effect immediately.

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RESOLUTION 65-2022

**REFUSE AND RECYCLE TOTE PRICE INCREASE**

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 Town Board of the Town of Somerset hereby establishes the following rates for additional garbage and recycling totes for Town residents:

1. Garbage totes -- \$80.00 per tote
2. Recycling totes -- \$75.00 per tote

**AND BE IT FURTHER RESOLVED**, that the above rates shall take effect immediately

RESOLUTION 66-2022

**AUDIT OF CLAIMS**

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

General Fund	No. 160	through No. 198	\$ 53,984.96
Highway Fund	No. 40	through No. 49	\$ 23,503.50
Sewer Fund	No. 45	through No. 51	\$ 4,178.73
Water Fund	No. 42	through No. 49	\$ 13,417.06

Supervisor Dewart provided the following updates:

- The data center at the plant has all of the shelving up in the 1<sup>st</sup> building and they are working on the electrical. They expect to be up and running in June. They are pouring the concrete floor in the 2<sup>nd</sup> building. They advised that the stack will be imploded possibly in November, and they will let Supervisor Dewart know when it is supposed to occur. They are also discussing keeping the main office building, and placing dirt and grass over the conduit to give them more green space. They have 20 employees and 125 construction workers currently.
- AES Solar participated in a ZOOM meeting with the Supervisor. They reduced the project from 200mw to 115mw, and will have no solar placed along the railroad tracks. They are looking at filing in late July.

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PRIVILEGE OF THE FLOOR

Jim Hoffman stated that Lake Road is like a raceway and requests that the police patrol it. Councilman Hotaling agreed and said that construction trucks for the plant go barreling though.

Jim also advised that a newspaper article on May 6, 2022 confirmed that Somerset Operating Company is delinquent on their taxes and that shows that they are not a responsible company.

Betty Wolanyk discussed an article from the NY Times that states solar projects in Vermont, Maine and Texas have been postponed. In all, 318 solar projects in the U.S. have been canceled or delayed. In 2012, tariffs were imposed on China for manufacturing solar panels. In 2018, the tariffs were increased. On March 25<sup>th</sup>, a small solar panel manufacturer filed a petition for an inquiry whether China was flooding the market with their products through 4 other nations. The Commerce Department is investigating this and the solar industry is on hold.

Agnes LaPorte confirmed that Solar on Earth will be going door-to-door. She feels that the residents should be notified so they know about it.

Supervisor Dewart said that we will put something on our website.

Krista Atwater said that Solar on Earth has been to her house and she asked if they had a permit. The lady was there at 6PM on a Friday night and lied to her, stating that she has a peddler's permit. Krista asked what to do if they won't show a permit?

Supervisor Dewart said to contact the Town and we will contact the police to watch for them.

RESOLUTION 67-2022

**EXECUTIVE SESSION**

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

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

Resolved to enter into Executive Session at 6:47PM to discuss a personnel matter.

RESOLUTION 68-2022

**EXIT EXECUTIVE SESSION**

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

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

Resolved to exit Executive Session at 7:15PM.

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On a motion of Councilwoman Jansen, seconded by Councilman Hotaling, the meeting adjourned at 7:16P.M. subject to the Call of the Clerk.

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Tracy L. Carmer, RMC  
Town Clerk

**MEMO**

**To:** Town of Somerset Town Board  
**Cc:** David Haylett, Seaman Norris  
**From:** Brian Sibiga, PE  
**Date:** May 9, 2022  
**Subject:** Influent Pump Station Controls Failure

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The Town of Somerset owns and operates an influent pump station at the edge the wastewater treatment plant (WWTP) site that collects all sewage from the Town Sewer District and pumps it to the WWTP. The pump station has two pumps with one pump operating and one available for backup and includes electrical panels, and control devices that are original construction. The pump station has historically operated without issues and the equipment was operational meeting the required performance despite its advanced age. The Town of Somerset Sewer Department expressed concern relative to a degradation of the condition of the electrical facilities and control equipment to our office at the end of March 2022. Our office assessed the facilities and agreed with the Town's assessment that this equipment has experienced recent deterioration and has thus experienced partial failure with some features unavailable such that repairs of these facilities are of critical importance and must be made immediately.

The Town of Somerset requires operation of this pump station to convey sewage to the WWTP. The condition of the electrical equipment is such that a failure would result in damage to a public health emergency with raw sewage being discharged into waterways and residences as well as potential damage to property while temporary pumping systems were installed. With current material shortages there is concern that availability of equipment for a temporary system maybe limited if available at all. Waiting for public bid of these improvements is not a viable alternative.

It is Wendel's recommendation that the influent pump station controls failure is a public emergency in accordance with General Municipal Law §103(4). Absent an emergency declaration, it is projected that it would be until Sept of 2022 before the electrical equipment and materials needed for repair could be purchased after public bidding of the project. By resolving to classify this situation as a public emergency the control panels and electrical equipment required can be ordered immediately eliminating approximately 4 months from the repair schedule. A proposal from two electrical contractors were obtained, while a third contractor stated they did not have capacity to perform this work and it is recommended that the Town of Somerset contract with Frey Electric. Lastly as part of this emergency repair is recommended that the power cables are replaced by the OEM pump manufacturer (GA Fleet) as they have proposed. It is recommended that the influent pump station control failure is declared an emergency and an agreement is entered into with Frey Electrical for the electrical controls work and with GA Fleet to replace the pump station power cords to minimize this time period for repair of the failed electrical controls on the influent pump station. *groundbreaking*

1 Centerpointe Corporate Park, 375 Essjay Road, Suite 200, Williamsville, NY 14221 p 716.688.0766 w [wendelcompanies.com](http://wendelcompanies.com)

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