

TOWN BOARD REGULAR MEETING
September 14, 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 14th day of September 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

Absent: Brian Sibiga ----- Engineer

Present: 5 residents and 3 students

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

RESOLUTION 89-2022

APPROVAL OF THE MINUTES

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

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

Resolved the minutes of the previous meeting on August 10, 2022 are accepted as submitted.

RESOLUTION 90-2022

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

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

COMMUNICATIONS

Clerk Carmer advised that the Treasurer for the Barker Cornfest submitted a copy of their Treasurer's Report and Charter Communications provided information on channel updates. Clerk Carmer read a letter that was submitted by Randy Atwater voicing his concern over political signs that are not taken down within 7 days after an election as per our Local Law.

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Attorney Haylett agrees that we should look at repealing the law as it may conflict with Freedom of Speech.

TAX CAP

Attorney Haylett advised that towns are being advised to entertain a local law to allow for a tax cap override due to the increase of the rate of inflation. Supervisor Dewart explained that we may not need to override the tax cap, but this override would allow us to if we need to.

RESOLUTION 91-2022

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 on October 12, 2022 at 6:00pm to hear and consider a local law to override the tax levy limit established in General Municipal Law Section 3-c.

WATER RATE INCREASE

Niagara County is increasing their rates due to chlorine costs so we are passing along the increase. Water/Sewer/Grounds Superintendent Dewart discussed a comparison of rates among other local towns. Our water rates were last raised in 2018 to pass along an increase. The last time that our sewer rates were increased was 2013.

RESOLUTION 92-2022

WATER RATE INCREASE

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, pursuant to Town Code Section 195-17, the Town Board may establish water rental rates,

NOW, THEREFORE, BE IT RESOLVED, that the water rates for water sales in and by the Town of Somerset and its Districts are hereby established as per the attached water rate schedule as amended, effective October 1, 2022.

RESOLUTION 93-2022

SEWER RATE INCREASE

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

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

WHEREAS, pursuant to Town Code Section 152-30, the Town Board may establish sewer rental rates,

NOW, THEREFORE, BE IT RESOLVED, that the sewer rates for sewer sales in and by the Town of Somerset and its Districts are hereby established as per the attached sewer rate schedule, effective October 1, 2022.

SEWER LOCAL LAW

Attorney Haylett explained the reason that we have to hold a public hearing to increase the sewer vent pipe repair fee is because it is set in our code.

Superintendent Dewart described sewer vents and explained the reason that we have to charge for the repair is because some residents were continually damaging the vent pipes and it is not fair to the rest of the taxpayers to incur the cost. As a courtesy, the Town covers the first repair, but any additional repairs are charged to the homeowner.

Councilman Leuer asked if we can generalize that section of code so that we do not have to hold a hearing to increase just that fee.

Attorney Haylett said that we can, he would have to rewrite the law. Next month we could call for a public hearing in November.

RESOLUTION 94-2022

BARKER FIRE DEPARTMENT MEMBER

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 the application of Andrew Bomba is approved.

RESOLUTION 95-2022

AUDIT OF CLAIMS

On a motion of Councilwoman Damon, seconded by Councilwoman Jansen, 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. 319	through No. 352	\$ 40,794.33
Highway Fund	No. 82	through No. 91	\$ 14,177.41
Sewer Fund	No. 89	through No. 99	\$ 7,343.06

Water Fund No. 69 through No. 75 \$ 1,538.22

PRIVILEGE OF THE FLOOR

Jim Hoffman asked for an update on the solar project at the plant.

Supervisor Dewart stated that they are supposed to be filing in mid-October and he understands that they have changed the footprint. He is asking for a meeting with them.

Jim said that we need to keep in mind that our Comprehensive Plan calls for maintaining the rural character of our town. He would like to see all of the solar panels on the north side of Route 18, leaving the remainder of their property as-is. He wants the Town to stand fast on the setbacks. Jim discussed the solar project at the school, stating that it has stalled as no connection can be made to the grid yet. Also, the barrier trees that were planted there are dying. He stated that the school has settled for past due PILOT payments in the amount of \$4,851,348 with a payment schedule to be completed by September 30, 2024. The plant still owes Niagara County \$2,158,735 and they are delinquent on their property taxes. The County Treasurer has initiated foreclosure proceedings.

RESOLUTION 96-2022

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 enter into Executive Session at 6:27PM to discuss a labor negotiations and a personnel matter.

Supervisor Dewart left executive session at 6:45PM.

RESOLUTION 97-2022

EXIT EXECUTIVE SESSION

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

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

Resolved to exit Executive Session at 7:05PM.

RESOLUTION 98-2022

OBTAIN OUTSIDE LAW FIRM

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

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

Resolved that the Town Board of the Town of Somerset hereby retains Hardy Marble LLP as outside counsel to investigate a personnel matter. at an amount not to exceed \$250/hr.

Supervisor Dewart returned to the meeting at 7:08PM.

RESOLUTION 99-2022

CONTRACT NEGOTIATIONS

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 Board of the Town of Somerset hereby retains Hardy Marble LLP as outside counsel to represent the Town in labor negotiations with the Teamsters Union, at an amount no to exceed \$250/hr.

On a motion of Councilwoman Jansen, seconded by Councilman Leuer, the meeting adjourned at 7:10P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk

TOWN OF SOMERSET

Water Rate Schedule

Service Classification No. 1

(Rates for water used by owners of property within the District and paying taxes therein, or not paying taxes but making annual payments in lieu of taxes, and their tenants.)

For Water Use:

1. Quarterly (Domestic and small consumers)

Minimum Charge – 1 st	8,000 gallons/quarter = \$17.50/quarter
Next	12,000 gallons/quarter = \$1.75/1,000 gallons
Next	80,000 gallons/quarter = \$1.65/1,000 gallons
All over	100,000 gallons/quarter = \$1.55/1,000 gallons

2. Monthly (Industrial and large consumers)

Minimum Charge – 1 st	3,000 gallons/quarter = \$7.00/month
Next	4,000 gallons/quarter = \$1.75/1,000 gallons
Next	33,000 gallons/quarter = \$1.65/1,000 gallons
All over	40,000 gallons/quarter = \$1.55/1,000 gallons

3. Churches \$1.75/1,000 gallons billed quarterly. No minimum charge.

Penalty: 10% of total bill for non-payment after thirty (30) days.

Service Classification No. 2

(Rates for water used by owners of property within the District but not subject to the payment of taxes and not making annual payments in lieu of taxes, and their tenants; and by consumers outside the District, or by consumers qualifying as temporary services.)

For Water Use:

1. Quarterly (Domestic and small consumers – including Yates residents who live on Countyline Road from Townline Road north to (but not including) 1917, and north of Roosevelt Highway (Lake Road).)

Minimum Charge – 1 st	8,000 gallons/quarter = \$35.50/quarter
Next	12,000 gallons/quarter = \$3.55/1,000 gallons
Next	80,000 gallons/quarter = \$2.80/1,000 gallons
All over	100,000 gallons/quarter = \$2.30/1,000 gallons

2. Monthly (Industrial and large consumers)

Minimum Charge – 1 st	3,000 gallons/month = \$14.20/month
Next	4,000 gallons/month = \$3.55/1,000 gallons
Next	33,000 gallons/month = \$2.80/1,000 gallons
All over	40,000 gallons/month = \$2.30/1,000 gallons

3. Churches \$3.15/1,000 gallons billed quarterly. No minimum charge.

4. Yates (Countyline Road from 1917 north to Roosevelt Highway (Lake Road); Roosevelt Highway from Countyline Road east to 10565; Millers Road from Countyline Road east to 10228; All of Payne Avenue)
- a. Residential customers are billed according to a rate schedule established by the Town of Yates and they make their payments directly to the Town of Yates.
 - b. Somerset bills the Town of Yates by voucher on a quarterly basis according to the following schedule:
 - i. Customers using 4,000 gallons or less: \$14.00/customer
 - ii. Customers using over 4,000 gallons: \$3.50/1,000 gallons
 - iii. Churches: \$3.45/1,000 gallons
 - iv. Water samples (usually 3 samples/quarter) per Niagara County charge
 - v. Final readings based on usage
 - vi. Meter repairs current cost of replacement

Penalty: 10% of total bill for non-payment after thirty (30) days.

Service Classification No. 3

(Rates for water used by trailer parks or campsites serviced through a master meter, and where at least one permanent structure exists.)

For Water Use through Master Meter:

Quarterly:

Minimum Charge – 1 st	8,000 gallons/quarter = \$17.50/quarter
Next	12,000 gallons/quarter = \$1.75/1,000 gallons
Next	80,000 gallons/quarter = \$1.65/1,000 gallons
All over	100,000 gallons/quarter = \$1.55/1,000 gallons

Penalty: 10% of total bill for non-payment after thirty (30) days.

Hydrant Use:

Agricultural Use

(Water used for purposes of spraying, irrigation and uses related to the growing only of commodities for human and animal consumption.)

Minimum Charge: \$55.00/year
\$1.50/1,000 gallons (irrigation use) billed monthly
\$2.10/1,000 gallons (agricultural)
Meter Charge as per fee schedule

Penalty: 10% of total bill for non-payment after thirty (30) days.

Residential Use

(Water used by residents from the hydrant for pool fills, etc.) Only ¾" meter

Minimum Charge: \$55.00/year
\$2.10/1,000 gallons billed upon project completion
Meter Charge as per fee schedule

Penalty: 10% of total bill for non-payment after thirty (30) days.

Commercial Use

(Water used for other than agricultural.)

Minimum Charge: \$55.00/year
\$2.10/1,000 gallons billed annually or upon project completion
Meter Charge as per fee schedule

Penalty: 10% of total bill for non-payment after thirty (30) days.

Installation of Service

Service Connections (Permanent)

Rates:

Service Classification No. 1:

Three quarter inch (3/4") Tap - \$1,200.00 per service (including meter)
One inch (1") Tap - \$1,400.00 per service (including meter)
Larger than one inch (1"), up to two inches (2"), Tap - \$2,251.00
Larger than two inch (2") Tap - All labor, materials and installation costs plus engineering fees and inspector fees.
Pit meters (up to 1") are an additional \$30.00 per meter
Pit meters over 1" need to be located in a building (or hot box) at the user's expense

Service Classification No. 2:

Three quarter inch (3/4") Tap - \$1,400.00 per service (including meter)
One inch (1") Tap - \$1,600.00 per service (including meter)
Larger than one inch (1"), up to two inches (2"), Tap - \$2,451.00
Larger than two inch (2") Tap - All labor, materials and installation costs plus engineering fees and inspector fees.
Pit meters (up to 1") are an additional \$30.00 per meter
Pit meters over 1" need to be located in a building (or hot box) at the user's expense

Fees

Meters:

Hydrant meters three quarter inch (3/4") - \$40.00
Hydrant meters one inch (1") - \$45.00
Hydrant meters over one inch (1") - \$70.00

Meter Repairs:

Damage meters due to freezing, hot water, or other causes, will be replaced and charged back to the property owner at the current cost of replacement (quote will be obtained from our current meter supplier.)

Effective October 1, 2022

Final billing and backflow preventer inspection:

The first inspection is free. A charge of \$55.00 will be charged to the homeowner if a second inspection is necessary.

Reinstate water billing:

If a homeowner will not be using water for more than one year and wishes to be removed from the billing system, they will incur a fee of \$70.00 when being placed back into the billing system.

Charges appearing on tax bill:

Somerset Water 2	WD381	.16/1,000	(Direct Benefit)
Somerset Water 2a	WD382	.04/1,000	(Indirect Benefit)
Som Water District	WD385	.12/1,000	(Church)

Any unpaid user charges for Town of Somerset as of October 1st each year shall be levied against the property owner's next current Town tax bill.

Somerset Town Code Section 152-30. Rate schedule provides as follows:

- A. The rate schedule is established so that sufficient revenue is collected to meet the debts presently incurred or to be incurred by the Somerset-Barker Sewer District. The rate schedule, as amended from time to time by resolution of the Town Board, is on file with the Town Clerk.
- B. Billing:
 - 1. The Indirect Benefit Charges, the Direct Benefit Charges and Unit Charges shall be billed via the County and Town tax bill and shall be payable herewith.
 - 2. The User Charges shall be billed quarterly via the Town of Somerset billing system and shall be payable within thirty (30) days of the date of billing. Past due amounts shall receive a surcharge of 10% added to the following quarterly bill and every past due unpaid balance thereafter. Any unpaid user charges on or before October 1st, shall be assessed against the user's property on the next current Town tax bill.
 - 3. All rates shall be reviewed annually. User Charges shall provide sufficient funds for continued operation and maintenance of the publicly owned treatment works. Unexpended revenue shall be transferred to the budget established for the following year.
- C. An Indirect Benefit Charge shall be levied on all parcels within the Sewer District which do not have sanitary sewers directly available for use.
- D. The Direct Benefit Charge shall be levied on all parcels within the Sewer District which have sanitary sewers directly available for use, whether or not the owner has made connection to the sewer.
- E. The Unit Charge and User Charge shall be levied against property owners that have made connection to the sewer.
- F. The first repair of a vent pipe in the town-owned portion of a sewer service connection shall be free. Subsequent repairs shall be \$75. (Pending)

SEWER RATE SCHEDULE

User Charge - Gravity (There shall be a minimum charge based On 8,000 gallons per quarter)	\$2.75/1,000 gallons of metered water usage
User Charge - Grinder Pump (There shall be a minimum charge based On 8,000 gallons per quarter)	\$2.75/1,000 gallons of metered water usage – homeowner pays electric charges
Industrial User	Established by individual contract
Tap fee for Gravity Sewer	\$1,500.00
Grinder Pump Unit (Includes tap, setting of pump, testing, Inspection and preventive maintenance) The cost of repairs and replacement are the expense of the homeowner.	\$750.00 installation fee plus current cost of Grinder Pump unit
Sewer Vent Pipe Repair	First repair free, per homeowner, per parcel (as of May 2010); each repair thereafter is \$75(Pending)
Misuse and Abuse	Time and materials cost
Seasonal Fee for Startup/Shutdown (Grinder Pump)	\$50 for startup \$50 shutdown

Final Billings:

When a sewer inspection occurs for a final reading, the first inspection is free. There will be a \$75 charge if we have to go back for a second inspection. This includes having to do a second inspection if we find a violation.

Summer Credit:

A formula is used to determine each resident's expected usage for the summer months. If the usage is exceeded, a credit will appear on the resident's quarterly bill for the 2nd and 3rd quarters for the excess usage due to summer activities.

Charges appearing on tax bill:

Somerset Sewer	SD390 (Unit Charge - Direct)	\$125/unit
Somerset Sewer	SD390 (Direct and Indirect Charge)	.18/1,000 (Assessed Value)
Som Sewer<300'	SD391 (Direct Charge)	.21/ft
Som Sewer >300'	SD392 (Direct Charge)	.025/ft
Som Sewer-nonuser	SD393 (Per contract)	
Som Sewer-nonuser	SD394 (Per contract)	

Note: These rates may be adjusted periodically to reflect change in costs to the district.