

TOWN BOARD REGULAR MEETING
November 9, 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 9th day of November 2022.

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
	Jonathan D. Dewart -----	Supt. of Water/Sewer/Grounds
	Mindy Austin -----	Confidential Asst. to the Supervisor
	David Haylett-----	Attorney
	Daniel Seaman -----	Attorney
	Brian Sibiga -----	Engineer

Absent: Robin R. Jansen ----- Deputy Supervisor

Present: 3 residents

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

Supervisor Dewart opened the Public Hearing on the Preliminary 2023 Budget at 6:01PM.

Clerk Carmer read the Notice of Hearing for the Town Budget and the Fire Department Budget. Notice of said hearing was sent to the Lockport Union-Sun & Journal on October 24, 2022 with same notice being posted on the same date at the Town Hall and on the website.

Supervisor Dewart pointed out the tax rates for 2023 are:

General	\$2.01112
Lighting	\$0.44318
Fire Protection	\$1.35459
Refuse	\$220/unit; \$48/partial unit

Each line was reviewed.

Jim Hoffman asked what the overall budget is.

Supervisor Dewart said it is \$3,341,473.

Jim congratulated the board for staying under the tax cap.

RESOLUTION 111-2022

CLOSE THE PUBLIC HEARING FOR 2023 BUDGET

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

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

Resolved, with no other persons desiring to be heard, to close the public hearing at 6:22PM.

Supervisor Dewart opened the Public Hearing on the Fire District Contract for 2023 at 6:23PM.

Councilwoman Damon pointed out that the contract remains the same for 2023.

RESOLUTION 112-2022

CLOSE THE PUBLIC HEARING ON 2023 FIRE DEPARTMENT CONTRACT

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

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

Resolved with no persons desiring to be heard, to close the Public Hearing at 6:24PM.

Supervisor Dewart opened the Public Hearing on Local Law #5-2022 amending the section of code pertaining to Vent Pipe Repairs at 6:25PM.

Clerk Carmer read the Notice of Hearing for Amending Section 152-30(F) of the Town Code. Notice of said hearing was sent to the Lockport Union-Sun & Journal on October 19, 2022 with same notice being posted on the same date at the Town Hall and on the website.

Jim Hoffman said that he disagrees with allowing one destruction per home as it is homeowner negligence.

RESOLUTION 113-2022

CLOSE THE PUBLIC HEARING ON LOCAL LAW #5-2022 AMENDING SECTION 152-30(F) OF THE TOWN CODE FOR VENT PIPE REPAIRS

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

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

Resolved with no other persons desiring to be heard, to close the Public Hearing at 6:27PM.

ENGINEER UPDATE

Brian Sibiga discussed the Redi project and said that there is a new Project Manager and the equipment is on order. The company had to make temporary repairs due to their delay.

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We are working with the DEC to obtain the ability to land apply the bio solids from the lagoons on a local farmer's field.
Engineer Sibiga left the meeting at 6:30PM.

RESOLUTION 114-2022

APPROVAL OF THE MINUTES

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

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

Resolved the minutes of the previous meetings on October 12, 2022 and October 26, 2022 are accepted as submitted.

RESOLUTION 115-2022

APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT

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

COMMUNICATIONS

Clerk Carmer discussed correspondence from the Department of Public Service advising of programs for eligible residents to get help with their winter utility bills. She stated that we received confirmation from the Public Service Commission that the new area code 624 will go into effect the second quarter of 2024.

RESOLUTION 116-2022

NEGATIVE SEQRA DECLARATION WWTP IMPROVEMENTS

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

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

WHEREAS, the Town of Somerset has experienced high flows resulting in negative impacts to treatment; and

WHEREAS, the Town of Somerset has potentially additional demands planned for the Lakeshore site and Power Plant; and

WHEREAS, new upgrades to the wastewater infrastructure in the Town of Somerset is necessary to accommodate high flows and future growth; and

WHEREAS, these improvements will act to promote high quality public services for both Town and its current and future users; and

WHEREAS, in accordance with Part 617 of the implementing regulations pertaining to Article 8 of the State Environmental Quality Review Act (SEQRA), the Town Board of the Town of Somerset has thoroughly reviewed the project and determined that it is an Unlisted Action under SEQR; and

WHEREAS, in accordance with Part 617 of the implementing regulations pertaining to SEQRA, the Town has reviewed Part 1 of the Full Environmental Assessment Form (FEAF) and completed Part 2 and Part 3 of the FEAF and reviewed the criteria for determining significance in accordance with Section 617.7 of SEQRA.

THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Somerset, in accordance with the New York State Environmental Quality Review Act (SEQRA), has determined that the proposed project will not adversely affect the natural resources of the State, and/or the health, safety and welfare of the public, and is consistent with social and economic considerations, and therefore issues a SEQR Negative Declaration in accordance with Section 617.7 of SEQRA, and

BE IT FURTHER RESOLVED, the Supervisor is authorized to sign the Environmental Assessment Form, which will act as the Negative Declaration for this project.

RESOLUTION 117-2022

LOCAL LAW #5-2022 VENT PIPE REPAIR

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

ADOPTED by Roll Call Vote:	Supervisor Dewart	Aye
	Councilman Hotaling	Aye
	Councilwoman Damon	Aye
	Councilman Leuer	Aye

RESOLVED, The Town Board of the Town of Somerset hereby adopts the Local Law Amending Section 152-30(F) of the Town Code.

RESOLUTION 118-2022

CULVERT POLICY

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

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

RESOLVED, that the Town Board of the Town of Somerset hereby adopts the attached "Roadside Ditch and Culvert Policy", effective immediately.

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RESOLUTION 119-2022

2023 BUDGET

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

ADOPTED by Roll Call Vote:	Supervisor Dewart	Aye
	Councilman Hotaling	Aye
	Councilwoman Damon	Aye
	Councilman Leuer	Aye

WHEREAS, the Preliminary Budget for the Year 2023 has been duly prepared by the Town Board and a duly publicized hearing was held on the 9th day of November, 2022 at 6:00 p.m.; and

WHEREAS, at which time all persons desiring to be heard were heard; now therefore be it

RESOLVED, that the Town Board of the Town of Somerset hereby adopts the preliminary budget as the Budget for the Town of Somerset for the Year 2023.

RESOLUTION 120-2022

2023 FIRE DEPARTMENT CONTRACT

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

ADOPTED by Roll Call Vote:	Supervisor Dewart	Abstain
	Councilman Hotaling	Aye
	Councilwoman Damon	Aye
	Councilman Leuer	Aye

RESOLVED, that the Town Board of the Town of Somerset hereby adopts the fire department budget for the year 2023 and authorizes the Deputy Town Supervisor to execute a contract with the Barker Fire Department, Inc. in the amount of \$240,000.

RESOLUTION 121-2022

FIRE DEPARTMENT MEMBER

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

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

RESOLVED, to reinstate Cameron Fox as a member of the Barker Fire Department.

SUPERVISOR UPDATES

- The Zoning Board meetings have changed to the first Tuesday of the month at 6:00PM.
- The former Barker Chemical Property has been approved for a storage facility. The owner has done a really good job fixing it up.

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- Electronic Recycling has some rule changes effective January 1, 2023. Discussion ensued.

RESOLUTION 122-2022

AUDIT OF CLAIMS

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

ADOPTED: Ayes 4 Dewart, 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. 385	through No. 424	\$ 46,968.92
Highway Fund	No. 102	through No. 112	\$ 13,492.34
Sewer Fund	No. 111	through No. 122	\$ 5,653.94
Water Fund	No. 82	through No. 90	\$ 9,783.53

PRIVILEGE OF THE FLOOR

Jim Hoffman said that on the EAF for the Data Center, the company marked "yes" on page regarding noise. They stated that the fans will be 95 decibels at the source and 80 decibels 100 feet from the source and there would be no impact to neighbors. He feels the company should be brought in to discuss it.

James Salerno said that he tried to record the noise from the data center but he could not get a good recording. He said the noise is not from cooling towers because the noise goes up and down. He is experiencing lack of sleep and his blood pressure goes up every time. He said that ear plugs do not help.

Supervisor Dewart said that he will pass it on to them again.

James said that he did some looking around and came upon the M.I.T. website discussing bit coin and it discusses high electric rates besides the noise. Also, China banned this due to pollution.

RESOLUTION 123-2022

EXECUTIVE SESSION

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

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

Resolved to enter into Executive Session at 6:56PM to discuss an investigative matter and union contract.

RESOLUTION 124-2022

EXIT EXECUTIVE SESSION

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

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

Resolved to exit Executive Session at 8:09PM.

RESOLUTION 125-2022

AMERICAN LEGION CONTRACT

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

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

RESOLVED, that the Town Board of the Town of Somerset hereby authorizes the Town Supervisor to enter into a contract with the Herbert W. Carr Post #425 of the American Legion to assist the American Legion placing and removing veteran's flags on utility poles in consideration of publicity for Town veterans.

On a motion of Councilman Leuer, seconded by Councilman Hotaling, the meeting adjourned at 8:11P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk

Town of Somerset Roadside Ditch and Culvert Policy

WHEREAS, the Town of Somerset maintains a town wide drainage system which consists, in part, of roadside ditches and roadside culverts. The interconnected system of roadside ditches and culverts provides for road drainage throughout the Town, and thereby serves and benefits the whole Town, and

WHEREAS, residents and property owners at times request that open ditches along the roadside adjoining their property be converted from an open ditch to a buried culvert. The Town recognizes that this conversion to buried culverts does serve the Town as a whole by lessening the need for ongoing ditch cleaning and grubbing, and also for aesthetic reasons which add to the desirability, value, and tax base of the Town. Nevertheless, although there are benefits to the Town of converting open ditches to buried culverts, the primary benefit of such serves the individual property owner of the abutting land.

Now therefore, in consideration of the above premises, the Town of Somerset adopts the following Roadside Ditch and Culvert Policy:

Request for Conversion

1) Residents and property owners fronting on a Town Road, may make a request of the Town Highway Department to convert open roadside ditches adjoining their property into buried roadside culverts including driveway access. Such requests shall be in writing and addressed to the Town Superintendent of Highways. Requests from residents and property owners fronting on State and County roads shall not be considered by the Town Superintendent of Highways except for new construction. Said residents and property owners should direct their request to the appropriate State or County representative.

2) The Town Highway Superintendent shall evaluate the request and determine whether the requested conversion will have negative impact on the Town's drainage system. If, in the Highway Superintendents opinion there will be a negative impact, the request may be denied.

3) If the Highway Superintendent determines that the requested conversion will not have a negative impact on the Town's drainage system, and if there are no other impediments to the conversion, the Highway Superintendent may grant the request for conversion subject to the payment provisions of this policy and any other conditions the Highway Superintendent may impose.

4) Once payment is made and all conditions are met, the Highway Superintendent may schedule the conversion to be completed by Town Highway Department personnel. Ditch conversion is a low priority task and shall be scheduled by the Highway Department as time permits and shall not take precedence over any other Highway Department function.

5) Nothing in this policy shall be construed as conferring a right of any property owner to have ditches abutting their property converted into culverts. Whether or not to undertake a conversion is entirely within the discretion of the Town and/or Highway Superintendent.

6) The Highway Department will only undertake to install the necessary pipe, fill, and rough grade the filled area. The Highway Department will not provide or install topsoil, seed, or anything else. The property owner will be responsible for additional fill, grading, etc. needed due to subsequent settling of the area.

Payment

- 1) The property owner shall be responsible for payment to the Town for all costs associated with the ditch conversion. The Highway Superintendent shall provide the property owner with a list of materials, including pipe, fill, gravel, etc. needed for the job, as well as the cost of such materials with a copy of said itemized list and expenses to the Town Clerk. The property owner shall be responsible for paying the full cost of these materials.
- 2) In addition to the cost of the materials, the property owner shall be responsible for paying a fee to the Town in the amount of **\$100.00** plus **labor costs** as determined by the Highway Superintendent. The labor fee shall be calculated by the Highway Superintendent based on the cost of Town labor and equipment required. This fee, along with the cost of materials, is intended to cover the full cost to the Town of the ditch conversion. The fees herein may be amended from time to time by Town board resolution.
- 3) Payment in full of the cost of materials and the fees detailed above must be made to the Town Clerk prior to commencement of any ditch conversion. The Town Clerk shall notify the Highway Superintendent upon full payment that the work can commence.