

TOWN BOARD REGULAR MEETING  
NOVEMBER 6, 2019

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 6<sup>th</sup> day of November 2019.

Present: Daniel M. Engert ----- Supervisor  
Robin R. Jansen ----- Councilwoman  
Jeffrey M. Dewart ----- Councilman  
Gail Damon ----- Councilwoman  
Jon Hotaling ----- 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  
Brian Sibiga ----- Engineer

Absent: David Haylett----- Attorney

Attended by: approximately 12 residents

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

**PUBLIC HEARING ON LOCAL LAW #1-2019 RE-LEVY UNPAID WATER BILLS ON TO COUNTY AND TOWN TAX BILL**

Clerk Carmer read the Notice of Hearing. Notice of said hearing was sent to the Lockport Union-Sun & Journal on October 16, 2019 with same notice being posted on the same date at the Town Hall and on the website.

Supervisor Engert opened the Public Hearing at 6:03PM.

**RESOLUTION 95-2019**

**CLOSE THE PUBLIC HEARING**

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

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

Resolved with no one desiring to be heard, to close the Public Hearing at 6:04PM.

**RESOLUTION 96-2019**

**PUBLIC HEARING ON PRELIMINARY 2020 BUDGET**

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 16, 2019 with same notice being posted on the same date at the Town Hall and on the website.

TOWN BOARD MEETING  
NOVEMBER 6, 2019 PAGE 2

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

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

Resolved to open the Public Hearing at 6:05PM

Jim Hoffman stated that he did not scrutinize the budget in detail but feels it is a good budget with the same rate so he recommends approval.

Supervisor Engert provided a summary:

- Zero increase in the General Fund tax rate
- Overall tax levy increased by less than 1%
- Overall spending increased by approximately 1%
- 1.96% pay raises across the board
- Fire District tax rate remained at \$0.94
- Zero service cuts in 2020

Pam Atwater said she read the summary and it shows good stewardship

Supervisor Engert addressed concerns about the Town being able to defend itself if the Lighthouse Wind application is filed and said the Town is prepared and positioned well to defend against it.

Cathi Orr commended the board on keeping rates the same and said they are underpaid.

RESOLUTION 97-2019

**CLOSE THE PUBLIC HEARING**

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

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

Resolved with all persons desiring to be heard, to close the Public Hearing at 6:10PM.

RESOLUTION 98-2019

**2020 BUDGET**

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

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

**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 2020.

RESOLUTION 99-2019

**PUBLIC HEARING ON FIRE DISTRICT 2020 BUDGET**

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

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

Resolved to open the Public Hearing at 6:12PM

RESOLUTION 100-2019

**CLOSE THE PUBLIC HEARING**

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

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

Resolved with no one desiring to be heard, to close the Public Hearing at 6:13PM.

RESOLUTION 101-2019

**2020 FIRE DEPARTMENT CONTRACT**

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

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

**RESOLVED**, that the Town Board of the Town of Somerset hereby authorizes the Town Supervisor to execute the 2020 contract with the Barker Fire Department, Inc. in the amount of \$240,000.00.

Serv Niagara Veteran's Services provided a presentation to the Board. Jennifer DeAndrea, the Founder and President, stated that they provide outreach programs to veterans in Niagara County, and that Niagara County has the highest amount of veterans per capita in New York State. At the holiday time they provide children's gifts, Christmas trees and wreaths, and a Ham Dinner. Last year they provided for 800 families.

Tony Kuhn runs the Pro Bono Legal program where veterans can talk to legal students at no charge, and they will discuss any issue even non-veteran issues. They are the largest military law practice group in the country and they do anything from representing court marshals all the way down to VA Claims. They will also fight for a discharge upgrade for

TOWN BOARD MEETING  
NOVEMBER 6 2019 PAGE 4

veterans who are discharged with a less than honorable discharge, no matter how long ago.

RESOLUTION 102-2019

**APPROVAL OF THE MINUTES**

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

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

Resolved the minutes of the previous meeting on October 9, 2019 are accepted as submitted.

RESOLUTION 103-2019

**LOCAL LAW #1-2019 ESTABLISHING A WATER BILL LEVY FEE**

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

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

Be it enacted by the Town Board of the Town of Somerset as follows:

**Section 195-14(B)(2) of the Code of the Town of Somerset is hereby abolished and replaced with the following:**

2. Water rentals of all kinds shall become due in January, April, July and October, except in the case of large industrial or commercial consumers where monthly billing may be ordered. In all cases where bills remain unpaid for a period of 60 days after becoming due, the Superintendent may shut off the water at the curb stop. Any water bill remaining unpaid on October 1 of the year following rendition, will be placed upon the first County tax roll made up after such date. The amount owed, any penalties for being past due and any other fees imposed shall become a part of the tax, along with an additional \$100 levy fee to recoup Town costs in processing the unpaid bill for inclusion on the County tax roll, and shall become due with the same and shall be subject to the same penalties and interest as such taxes.

RESOLUTION 104-2019

**JCAP GRANT**

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

ADOPTED: Ayes                5        Engert, Jansen, Dewart, Damon, Hotaling  
              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 2019-20 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 2019-2020 grant cycle up to \$30,000.00, or the exact amount being requested.

RESOLUTION 105-2019

**ZERO TURN RADIUS MOWER PURCHASE**

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

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

**WHEREAS**, the Town of Somerset Water Department desires to purchase a new zero turn radius mower and trade-in the existing 2010 Kubota mower with a 60 inch mower deck; and

**WHEREAS**, the estimated purchase price of a new zero turn radius mower was greater than \$5,000.00 but less than \$20,000.00; and

**WHEREAS**, the Superintendent of the Water/Sewer/Grounds Department received three (3) written quotes for the zero-turn radius mower; and

**WHEREAS**, the lowest written quote received including the trade-in credit was in the amount of \$7,595.22 submitted by Niagara Implement Inc.; now therefore be it

**RESOLVED**, that the Town of Somerset hereby declares that the 2010 Kubota, Model ZD326 mower is surplus property and the Town Superintendent of Water/Sewer/Grounds is authorized to trade-in said mower to Niagara Implement, Inc. for the amount of \$5,500.00; and be it further

**RESOLVED**, that the Town of Somerset Superintendent of Water/Sewer/grounds is hereby authorized to purchase a Kubota zero-turn radius mower model number ZD1211-60 as provided for in the written quote dated August 22, 2019 from Niagara Implement Inc. and said expenditure shall be taken from the 2019 budget; and be it further

**RESOLVED**, that the purchase price of the new mower shall not exceed \$7,595.22 after trade-in credit of \$5,500.00.

RESOLUTION 106-2019

**BARKER FIRE DEPARTMENT APPLICANTS**

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

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

Resolved to approve the applications of Kyle M. Zimmerman and Emily Rose LaJoie and add them to our roll.

RESOLUTION 107-2019

**REDI PROJECT**

Supervisor Engert stated that we are being awarded \$1,334,000 for our Multiple Use Site (Asset #19 on the proposal). For disbursement of the award we have to submit a proposal by December 2<sup>nd</sup> with a 5% match (\$66,700). He said this is a predicament and we have to discuss risk vs reward. If we do not submit this by December 2<sup>nd</sup> we will lose the \$1,334,000. He said it is not a matter of not having the money now, but whether or not the feasibility study determines if we should move forward with making this a municipal site plan. The Department of State is interested in our project but it is still a risk. Councilman Hotaling stated that this is 5,000 feet of lake frontage.

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

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

**RESOLVED** that the 5% match is required for the disbursement of Asset #19, The Town of Somerset Municipal Site, the 95% State match grant of \$1,267,300 for a total grant award of \$1,334,000 fund from the Redi Grant program cannot be disbursed until the securing of the 5% match from the Town of Somerset, therefore be it

**FURTHER RESOLVED** that the Town Board of the Town of Somerset authorizes the Supervisor to expend as necessary an amount up to \$66,700 to move the Redi Grant project for Asset #19 along and to further monitor it throughout the process.

RESOLUTION 108 -2019

**AUDIT OF CLAIMS**

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

ADOPTED: Ayes                5        Engert, Jansen, Dewart, Damon, Hotaling  
              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. 358 through No. 393	\$ 39,761.80
--------------	-------------------------	--------------

TOWN BOARD MEETING  
NOVEMBER 6, 2019 PAGE 7

Highway Fund	No. 114 through No. 122	\$ 9,490.40
Sewer Fund	No. 103 through No. 117	\$ 10,412.87
Water Fund	No. 78 through No. 93	\$ 14,001.99

PRIVILEGE OF THE FLOOR

Steve Royce asked if there is any progress on the proposed Data Center. Supervisor Engert said that there have been meetings, but no movement.

Agnes LaPorte asked that since the Multiple Use Site would be a Town park rather than a State park, would there be an admission charge? She also thanked the board for bringing in Serv Niagara.

Supervisor Engert said that the site is approximately 276 acres so roads would have to be built and maintained so he cannot commit that there will not be a charge, but it would not be excessive.

Betty Wolanyk said seeing what is happening in neighboring towns with proposed wind turbine projects, she would like to thank the Board for their service to the Town. She appreciates that the Town Board functions professionally and with integrity.

Jim Hoffman referred to an article from Education News that states that fiberglass turbine blades are transported to landfills to be buried because they cannot be recycled. According to the article the blades will take hundreds of years to biodegrade. He also discusses an article about the Town of Freedom where the State Supreme Court ruled that Town Board acted illegally in approving its new wind law at the urging of Invenergy. Jim said that grass roots is effective.

Pam Atwater summarized an article on the Cassadaga Project which is the first project approved under Article 10. She stated that the project looks different how it was approved than it does now. It has already been sold, they allowed tree clearing to start early and are looking to relocate the site for the connection to the power grid. It will have a larger impact on wetlands. The approvals were made without the 2 ad-hoc committee members.

Cathi Orr said that the same thing happened in Wyoming County and they changed the size of the turbines at the last minute.

Betty Wolanyk noted that the issue with forest clearing early is that it affects bats in the trees.

On a motion of Councilwoman Jansen, seconded by Councilman Dewart, the meeting adjourned at 7:08P.M. subject to the Call of the Clerk

---

Tracy L. Carmer, RMC  
Town Clerk