

TOWN BOARD REGULAR MEETING  
February 14, 2024

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 14<sup>th</sup> day of February, 2024.

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

Absent: Robin R. Jansen ----- Councilwoman

Audience: 7 residents and a reporter

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

RESOLUTION 28-2024

**APPROVAL OF THE MINUTES**

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 minutes of the previous meeting on January 3, 2024 are accepted as submitted.

RESOLUTION 29-2024

**APPROVAL OF SUPERVISOR'S REPORT**

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

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

Resolved the Supervisor's Report for January 2024 is accepted as submitted.

MONTHLY REPORTS RECEIVED

Supervisor  
Police

ANNUAL REPORTS RECEIVED

Town Clerk  
Fort Hyde Kennels  
Barker Fire Department  
Somerset Historical Society

COMMUNICATIONS

Clerk Carmer advised of a few changes that Charter Communications is making, and she summarized a letter received from a resident noting that the noise pollution from Lake Mariner Data Center has not gotten better.

ENGINEER UPDATE

Engineer Sibiga reported that the vulnerability and cybersecurity plans for the wastewater treatment plant were submitted by the end of the year. They had to discuss our water service inventory, noting if there is any lead in any of the water services. The report is due by October 31, 2024, and our records are well maintained so we should be able to prepare it for less than normal. When we submit the report, if we have any services that are unknown whether they have lead or not, we will have to do the report again. Engineer Sibiga announced that they are still waiting for the UV grants to be announced. Discussion ensued regarding the latest storm not causing issues with our system, and looking at leak detection devices in the future.

RESOLUTION 30-2024

**ESTABLISH COMMITTEE FOR SHORT TERM RENTAL LAW REVIEW**

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

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

**WHEREAS**, the Town Board strongly believes that its primary duty is to listen to its constituents of the Town of Somerset and to be responsive to their needs and concerns; and

**WHEREAS**, the Town of Somerset Town Board desires to enact short-term rental regulations within the Town of Somerset outside of the Village of Barker; and

**WHEREAS**, the Town Board held public hearings on a Local Law entitled "A Local Law Enacting Short-Term Rental Regulations" and said public hearings generated considerable public interest from residents in favor of short-term rentals and opposed to short-term rentals; and

**WHEREAS**, the Town Board desires to ensure all facts and opinions are considered and a thorough and reasonable local law is developed;

**NOW THEREFORE BE IT RESOLVED**, that the Town Board hereby establishes the Somerset Short-Term Rental Regulations Review Committee to carefully research and study short-term rental regulations and offer recommendations for the implementation of a Town of Somerset Short Term Rental Law; and be it further

**RESOLVED**, that the committee shall be an Ad Hoc Supervisor's committee and the members shall serve at the pleasure of the Town Board with no compensation; and be it further

**RESOLVED**, that the following individuals or representatives shall serve on the Somerset Short-Term Rental Regulations Review Committee:

- Gail Damon, Town Board Member
- Fred Leuer, Town Board Member
- Andre Pagliaro, Town Resident
- Michael Lawrence, Town Resident
- Dean Schatz, Town Resident
- Laura Smith, Town Resident

**RESOLVED**, that the committee shall commence its first meeting no later than March 13, 2024 and shall be called by Ms. Damon, Town Board Member with two weeks written notice; and be it further

**RESOLVED**, that this committee shall report its findings and recommendations to the Town Board on or before December 11, 2024.

RESOLUTION 31-2024

**AIR POWERED TIRE CHANGER FOR THE WASTEWATER TREATMENT PLANT**

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

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

**WHEREAS**, the Town of Somerset Water Department desires to purchase a new air powered tire changer for the Water, Sewer, and Grounds Department; and

**WHEREAS**, the estimated purchase price of a air powered tire changer was greater than \$5,000.00 but less than \$20,000.00; and

**WHEREAS**, the Superintendent of the Water/Sewer/Grounds Department received seven (7) written quotes for the air powered tire changer; and

**WHEREAS**, the lowest written quote was submitted by EJK Auto Parts in the amount of \$4,789.64 dated January 11, 2024.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town of Somerset Superintendent of Water/Sewer/grounds is hereby authorized to purchase a new air powered tire changer in the amount of \$4,789.64 as provided for in the written quote dated January 11, 2024 from EJK Auto Parts; and be it further

**RESOLVED**, that the Town Supervisor and Superintendent of Water/Sewer/Grounds are authorized to execute any and all documents in such form as is satisfactory to the Town Supervisor and the Town Attorney and take whatever other actions may be necessary to give effect to this resolution.

Superintendent Green stated that this tire changer can accommodate rims from 6” to 24”. Supervisor Dewart said that this is a budgeted item and the Highway Department will be able to use it as well.

RESOLUTION 32-2024

**APPROVAL OF AMERICAN LEGION AGREEMENT**

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

ADOPTED: Ayes           3       Dewart, Damon, Leuer  
              Nays            0  
              Abstain        1       Hotaling

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 veterans’ flags on utility poles in consideration of publicity for Town veterans.

RESOLUTION 33-2024

**APPROVAL OF BARKER FIRE DEPARTMENT AGREEMENT**

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

ADOPTED: Ayes           3       Hotaling, Damon, Leuer  
              Nays            0  
              Abstain        1       Dewart

**RESOLVED**, that the Town Deputy Supervisor is authorized to sign an agreement with the Barker Volunteer Fire Company for the Town to provide snow plowing and partial grass cutting services in consideration for the use of the Fire Hall Banquet room from time to time as the Town desires.

RESOLUTION 34-2024

**MORATORIUM ON SHORT TERM RENTALS**

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

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

**RESOLVED**, a public hearing will be held on March 13th, 2024 at 6:00 p.m. at Somerset Town Hall, 8700 Haight Road, Barker, New York to hear and consider a local law entitled "A Local Law Establishing a Moratorium on Short Term Rentals within the Town for a Period of Nine Months."

It was discussed that the moratorium applies only to new short term rentals. Existing rentals are exempt, but cannot expand during this time.

SUPERVISOR UPDATE

Supervisor Dewart advised that the solar application has been deemed complete by Ores. Tomorrow there is a conference scheduled with the Supervisor, Attorney and Engineer to discuss next steps.

RESOLUTION 35-2024

**AUDIT OF CLAIMS**

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

General Fund	No. 17 through No. 80	\$ 524,274.11
Highway Fund	No. 10 through No. 22	\$ 20,527.87
Sewer Fund	No. 7 through No. 26	\$ 7,931.59
Water Fund	No. 5 through No. 17	\$ 18,424.64

Councilman Hotaling asked if there is any word on the implosion of the stack at the plant. Supervisor Dewart said no, but they are supposed to let them know if/when they plan to do it.

PRIVILEGE OF THE FLOOR

Curt Smith asked how the moratorium will work regarding existing rentals. Will they have to show something to prove that they are already in existence?

Attorney Haylett said that he understands and we will have to figure it out on a case by case basis.

Curt asked if anything will be allowed to be permitted right now?

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Supervisor Dewart said no because we have no regulations right now.

Curt asked if the existing rentals will have to abide by the new rules when they are created?

Attorney Haylett said that will be determined by the new law that gets adopted.

Councilman Leuer discussed the permitting renewal process if a permit is required by the new law.

Attorney Haylett stated that we do have ordinances in place that apply to everyone, such as noise, dogs, etc.

Curt is worried about the liability for the town until the law gets put in place.

Attorney Haylett hopes that it will take less than 9 months. We are proposing the moratorium for a longer period because it lessens the chance that we will have to extend it.

Betty Wolanyk stated that

- during the election an issue came up as to whether the Town should maintain its own police force or use the County. Betty is in favor of keeping our own force due to the time that it would take for the sheriff to respond.
- Modern Disposal did not send out new calendars until February, and we pay enough for their services that we should receive our calendars in December.
- the noise from the Lake Mariner Data Center is almost constant now. Betty stated that Beth Staples reported that the noise can be heard where they live on West Somerset Road. This is an ongoing problem and Betty feels that the Town should do something instead of waiting for sound studies.
  - Supervisor Dewart stated that Beth's letter was passed along to the plant. They were supposed to contact Beth and put a meter in Beth's yard for the study.
  - Discussion ensued and Attorney Haylett stated that in order to prosecute we would need to do our own study by a professional firm.
  - Supervisor Dewart said that he will get a cost for a study.
  - Engineer Sibiga will ask for a cost from someone from a firm that they work with that does environmental work that includes sound.

Jim Hoffman is interested in knowing what the plans are now that ORES approved the solar application. Referring to the supplemental submission that arrived in January that discussed our local laws and ordinances, Jim says that they make the claim that they are consistent with our laws and ordinances to the maximum extent practicable. Jim said that the supplement picks apart our laws and is riddled with requests for waivers and claims of unreasonably burdensome requirements. Many areas of the report are redacted and Jim wants to know why, since this is a public record. They also challenge the interpretation of certain sections of our laws and they asked ORES not to apply the Town's zoning requirements. Even though the Town has opted out, they plan to request a PILOT. They made a statement that they do not need a Special Use Permit, Site Plan

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Review or Building Permit, which is what our laws are. Jim said that they claim no economic impact on the Town, but they plan to use about 250 acres of land which is currently agricultural use. This land will be removed from agriculture for the life of the project, which will have an economic impact.

Supervisor Dewart asked for a study on what the economic impact will be on area farmers and they stated that they aren't going to do a study and ORES told them that they don't have to.

Jim stated that they advised that the land south of Route 18 is necessary to provide 125 megawatts, but they still have an area on the landfills that they are not touching. Why not? Jim said that they have a habit of telling us what we want to hear, then they do their own thing. Jim wants us to try to get them to follow our rules.

On a motion of Councilman Hotaling, seconded by Councilwoman Damon, the meeting adjourned at 6:43P.M. subject to the Call of the Clerk.

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Tracy L. Carmer, RMC  
Town Clerk