

TOWN BOARD REGULAR MEETING
March 13, 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 13th day of March, 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

Absent: Robin R. Jansen ----- Councilwoman
 Brian Sibiga ----- Engineer

Audience: approximately 20 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.

OPEN PUBLIC HEARING ON LOCAL LAW #1-2024 ESTABLISHING A
MORATORIUM ON SHORT TERM RENTALS WITHIN THE TOWN FOR A PERIOD
OF NINE MONTHS

Clerk Carmer read the notice of public hearing for Local Law #1-2024. Notice of said hearing was sent to the Union Sun & Journal and posted on the town website on February 27, 2024

Dale Howard asked who will monitor to see who is running one already? Who will enforce it? Will there be a penalty if someone starts one during this period? Will we monitor the short term rental websites? What is the complaint process?

Supervisor Dewart said that we will have to go by word of mouth for enforcement because we cannot send someone out to monitor every place along the lake.

The complaint process will be the same – a written complaint submitted to the Town Clerk who will pass it along to code enforcement. If that does not work, we will issue a cease and desist. After that, we would have to take them to court.

Supervisor Dewart said that we have to rely on many for enforcement as we cannot have someone full-time monitoring websites.

Attorney Haylett stated that if someone is in violation, the town would have to go to the Supreme Court to obtain an order.

TOWN BOARD MEETING
MARCH 13, 2024 PAGE 2

Jim Hoffman was on the Town Planning Board for 38 years and feels that we should proceed with the moratorium to iron out the wrinkles. Jim feels that we should not allow short term rentals in residential zones as our residents deserve peace and quiet. Plus, it makes it a business area.

Chris Graham has a short term rental and feels that it provides a necessity for people who do not live in the area and want to enjoy it. Chris stated that prior to the formality of Airbnb, people rented cottages all of the time, why is it a big deal now? Also, Chris has rented to family members of neighbors who are now opposing this. Supervisor Dewart stated that we are not banning short term rentals, just not allowing new ones until the law is in effect. Chris stated that they do not have a problem with that.

Laura Smith said that there is a difference between knowing your neighbor or a constant influx of transient people staying there. Laura is against them in a residential area because of the close proximity in the RLS district. Also, zoning classifies the RLS district as single family residences.

Nova Popovich asks the board to reconsider the moratorium as STR's are great for business. Nova states that even if just one is waiting to open, that means a turnover of fresh people each week to spend money in our community. Nova also feels that a pause will do little to mitigate the problems that our residents are currently experiencing, because those operators will still be operating.

Susan Carestia stated that Lake Ontario is 11,000 years old so we are not the first, nor the last, people to be living on the lake. A neighbor told them that the original cottage owners were squatters. Susan rented places on the lake from a local realtor, and ended up purchasing a place on the lake because they enjoyed it so much. Susan said that she understands the lakefront plan. It wants to encourage tourism, agriculture, and residential, so we need to have a balance. The people that they rent to spend time around the whole county, so it helps more than just our town.

Francis Scaglione is a new homeowner who is an art teacher in Buffalo, along with his wife. They feel welcome here and fell in love with the community. They love the lakeside for inspiration and in order to be able to make this opportunity for their family, they need to operate it as a short term rental to offset the costs. They care for it themselves and are careful who comes to it, and can monitor who they will allow to stay there. They want to protect the special quality of the town for all of their neighbors. Francis understands that this is just a pause, but feels that the moratorium is stifling opportunities that could be happening this summer.

Clerk Carmer read into the record correspondence that was submitted via email from Greg and Ellyn MacConnell, Peg and Paul Schwabel, and Richard Allen. (attached)

TOWN BOARD MEETING
MARCH 13, 2024 PAGE 3

Susan Carestia advised that one of those letters came from a person who came here to a rental first, and then purchased here.

RESOLUTION 36-2024

**CLOSE HEARING ON LOCAL LAW #1-2024 ESTABLISHING A MORATORIUM ON
SHORT TERM RENTALS WITHIN THE TOWN FOR A PERIOD OF NINE MONTHS**

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

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

With all persons who desired to be heard, having been heard, the hearing closed at 6:25PM.

RESOLUTION 37-2024

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 meeting on February 14, 2024 are accepted as submitted.

RESOLUTION 38-2024

APPROVAL OF SUPERVISOR'S 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 Report for February 2024 is accepted as submitted.

MONTHLY REPORTS RECEIVED

Supervisor
Police
Code Enforcement (January and February)

ANNUAL REPORTS RECEIVED

Code Enforcement
Somerset Youth Baseball

COMMUNICATIONS

None

TOWN BOARD MEETING
MARCH 13, 2024 PAGE 4

RESOLUTION 39-2024

LOCAL LAW #1-2024 ESTABLISHING A MORATORIUM ON SHORT TERM RENTALS WITHIN THE TOWN FOR A PERIOD OF NINE MONTHS

On a motion of Councilman Leuer, 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 Town Board of the Town of Somerset having duly called and held a Public Hearing at Somerset Town Hall, 8700 Haight Road, Barker, New York 14012, on the 13th day of March, 2024 upon the question of the enactment of "A Local Law Establishing a Moratorium on Short Term Rentals within the Town for a Period of Nine Months"; and

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Somerset that "A Local Law Establishing a Moratorium on Short Term Rentals within the Town for a Period of Nine Months" is hereby enacted and effective upon its filing with the New York State Department of State.

Councilwoman Damon asked if it should read "new short term rentals"? Attorney Haylett explained that this is the title of the local law, and the law itself has the exemption for existing short term rentals.

APPOINTMENT

Supervisor Dewart stated that Mike Dickinson is appointed Lead Man at the Highway Garage.

RESOLUTION 40-2024

APPROVAL OF BARKER 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, the application for Karl Hinterberger to become a member of the Barker Fire Department is approved.

SUPERVISOR UPDATES

- On April 8th, the Town Hall and both departments will be closing at 11:00am for the Total Eclipse. A guide from Niagara County is posted on our website and

TOWN BOARD MEETING
MARCH 13, 2024 PAGE 5

they are asking that everyone get their medications, food, gas, etc during the week prior to alleviate the anticipated traffic jams. They are guessing that it will take 4-5 minutes or longer to move a mile or two, with 1,000,000 people anticipated to be coming to Niagara County. The fire department will have crews on all day Monday. Our police will be out all day Sunday and Monday. The county is putting double patrols on Sunday, and triple patrols on Monday. Golden Hill has opened campsites for the event.

- Somerset Youth Baseball wants to do something for the kids during the season, like a petting zoo, food truck, etc. Supervisor Dewart advised that they will need a certificate of insurance. Councilman Hotaling said that Lakeview Animal Sanctuary is open to doing this.
- We are approved for the \$30,000 grant to perform a study to use UV light instead of chemical.
- Last week, the mediation law judge for the solar project was named, and they contacted our attorney for a zoom meeting. They are looking for our stance on things, what we want to fight or not.
- Clerk Carmer gave a brief overview of the ORES site, whose link is on our website. She stated that from a class that she and Supervisor Dewart took in NYC, they were told that ORES really wants to hear from the community on where they want the panels placed, so she suggested that residents make their voice heard.
- Solar Simplified wants to send out mailers to our residents and we need to have a resolution for this. The residents would see a savings up to 10%, and the town would receive \$50 for every resident who signs up with them. You would still receive your bill from National Grid. Supervisor Dewart will ask them to attend our next meeting.

RESOLUTION 41-2024

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. 81 through No. 127	\$ 76,067.55
Highway Fund	No. 23 through No. 31	\$ 44,687.02
Sewer Fund	No. 27 through No. 39	\$ 5,302.82
Water Fund	No. 18 through No. 23	\$ 1,728.85

TOWN BOARD MEETING
MARCH 13, 2024 PAGE 6

PRIVILEGE OF THE FLOOR

Lisa Brochey stated that she was denied a permit to build a pole barn that she was purchasing from PARCO. Mark Remington told her to submit a letter to the board confirming that they intend to build a house in the next 24 – 36 months.

Attorney Haylett said that the board does not have anything to do with this, and he will talk to her after the meeting.

Jim Hoffman emailed the board on the impact of the solar farm that is proposed. According to the 2022 Agriculture Survey performed at the county level, the gross average of sales equates to \$1,289/acre. Multiply that times the 247 acres that will be taken out of agricultural production, the loss will be \$318,313 per year. The life of the solar plant is estimated to be 35 years, so that would have an impact of \$11,133,405 in 2022 dollars.

Dale Howard wants regular updates as a standard agenda item for a potential reval. Supervisor Dewart said that we are still in the process of trying to find funding for it. A quote that we were given is for \$125,000 - \$150,000.

Dale said that now that we have short term rentals that rent a room, that makes them a multi-family house. Dale wants to put up a multi-family house and is asking if that can be done now.

Attorney Haylett said that in the RLS district you would have to apply for a use variance. They agreed that it is very tough to get.

Dale wants to know why he cannot do it, if others in the district can do Airbnb which he considers multi-family.

Attorney Haylett said that he would be willing to look at any information that Dale may have on that.

A resident was reading about the moratorium and is wondering how the town is going to know who is new.

Attorney Haylett said that it will be hard to track, and will have to be based off of complaints or any information the town receives or that our code enforcement is able to identify. There is not a clear answer for it.

On a motion of Councilwoman Damon, seconded by Councilman Leuer, the meeting adjourned at 6:47P.M. subject to the Call of the Clerk.

Tracy L. Carmer, RMC
Town Clerk

[Somerset NY] STR's in the Town of Somerset (Sent by Greg MacConnell, gmacconnell@austin.rr.com)

1 message

Contact form at Somerset NY <cmsmailer@civicplus.com>

Tue, Mar 12, 2024 at 12:19 PM

Reply-To: gmacconnell@austin.rr.com

To: tracycarmer <tracy.carmer@gmail.com>

Hello tracycarmer,

Greg MacConnell (gmacconnell@austin.rr.com) has sent you a message via your contact form (<https://www.somersetny.org/users/tracycarmer/contact>) at Somerset NY.

If you don't want to receive such e-mails, you can change your settings at <https://www.somersetny.org/user/83/edit>.

Message:

Dear Town Clerk of Somerset, NY,

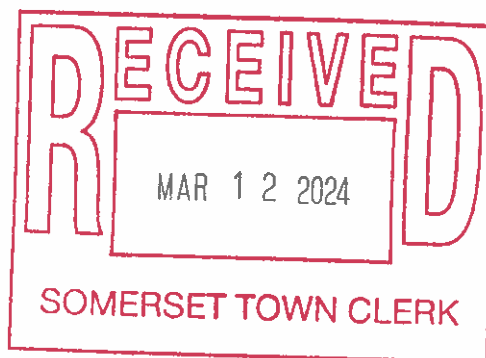
I am writing to express our support for a moratorium on short-term rentals (STRs) in the Town of Somerset. We believe that this temporary halt on new STRs is a necessary measure to preserve the residential character of our neighborhood.

Our concern stems from the influx of vacationers attracted by STRs. While we understand the appeal of our town as a vacation destination, we have observed that the mindset of these temporary residents can be dramatically different from the long-term residents of our community. This difference in lifestyle and expectations can lead to conflict and disrupt the harmony of our neighborhood.

We hope that by imposing a moratorium on STRs, we can take the time to establish clear guidelines and regulations that balance the interests of homeowners, renters, and the broader community. This will ensure that Somerset remains a desirable place to live, not just for vacationers but, more importantly, for the people who call it home.

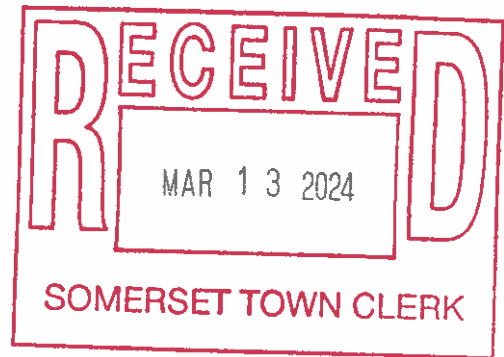
Thank you for your attention to this matter.

Sincerely,
Greg & Ellyn MacConnell



9121 Lakeshore Drive
Somerset, NY 14012
March 13, 2024

Town Board of Somerset NY
Town Hall
Somerset, NY 14031



Ladies and Gentlemen of the Town of Somerset Board:

Subject: Proposed Nine-Month Moratorium on Short-Term Rentals

As you meet tonight to consider establishing a ban/moratorium on short-term rentals in the Town, it is important to remember that a committee to address the development of fair and equitable short-term regulations is meeting regularly. Thus, establishing any moratorium limiting property owner rights at this point in time seems detrimental to that on-going effort for fair and reasonable regulation. We simply write to ask, **"What is the rush?"**

"Bans" are serious steps and should not be enacted without public vote and input from all involved. "Bans" can seriously impact sales prices and property availability. What research has been done regarding financial implications of such a ban?

Somerset is "A Right to Farm Community." The Town would most certainly not do anything to limit the right of our farmers to do what they do best. Why would you now take away rights from homeowners? **Can any one of us say what circumstances might arise in another person's life that would require them to need to rent their property on a short-term basis over the coming months?**

According to law, ownership rights in real property include...

- the right to possession
- the right to control
- the right to use in quiet enjoyment
- the right to allow others a right to use (licenses and leases)
- the right to privacy within one's own property boundaries and the right to exclude others
- the right to transfer property
- the right to use property as collateral through a mortgage.

Source : nycbar.org : <https://www.nycbar.org>

We urge the Board to reject arbitrary "bans" that take away property owner rights without their permission. Towns are far different from "homeowner" associations where buyers into such communities voluntarily sign away a huge number of their normal property rights. Thank you.

Sincerely,

Peg and Paul Schwabel

[Somerset NY] Proposed Moratorium for Short Term Rentals (Sent by Richard Allen, richardallen5@verizon.net)

1 message

Contact form at Somerset NY <cmsmailer@civicplus.com>

Tue, Mar 12, 2024 at 10:22 PM

Reply-To: richardallen5@verizon.net

To: tracycarmer <tracy.carmer@gmail.com>

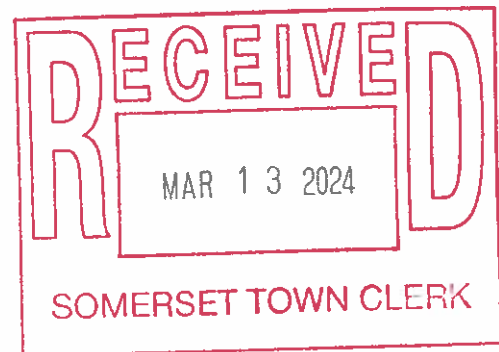
Hello tracycarmer,

Richard Allen (richardallen5@verizon.net) has sent you a message via your contact form (<https://www.somersetny.org/users/tracycarmer/contact>) at Somerset NY.

If you don't want to receive such e-mails, you can change your settings at <https://www.somersetny.org/user/83/edit>.

Message:

I own a house on Lakeview Drive and my neighbor is currently renting his Lakehouse via Airbnb. Over the past 2 weeks we've had renters coming and going at all hours of the night. The last 2 renters couldn't figure out how to get into the house and walked all around the property as well as all around our property trying to figure out how to get in at 3:30 AM. Our security cameras were going crazy. We ended up calling the police to report the incident. Although I support the moratorium, I'd like to see a total ban on short term rentals in our neighborhood. Renters don't respect the surrounding properties or the privacy of the other home owners. This will result in bad things!



Town of Somerset
Board Meeting 3/13/24
Moratorium for Short-term rentals (STR)

- I am not opposed to STRs throughout the entire Town of Somerset. I believe they should be lawfully operated in properly zoned districts with current valid permits issued by the Town of Somerset.
- However, I am strongly opposed to STRs currently operating and any future operations in the RLS District - Lake Shore Residential District.
- We currently have laws that govern our Town and cohesively work together and prohibit any other use in the district than Single Family Dwellings.
- Town of Somerset Code, Zoning, Chapter 205, Article X, Paragraph 205-33 defines: Permitted principal uses as: A. Single Family Dwellings
 - Town of Somerset Code, Zoning, Chapter 205, Article II, Paragraph 205-8 defines:
 - DWELLING, ONE-FAMILY – a building or dwelling unit designed for or occupied exclusively by one or more persons living as a single, nonprofit housekeeping unit, but said dwelling shall not include mobile/manufactured homes.
 - FAMILY – one or more persons, related by birth, marriage or other domestic bond, occupying a dwelling unit and living as a single nonprofit housekeeping unit
- Town of Somerset Code, Chapter 197, Town of Somerset Waterfront Consistency Law
 - 197-2 B: The purpose of this chapter is to provide a framework for the agencies of the Town of Somerset to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing application for private actions or direct agency actions which are located in the waterfront area and to ensure that such actions are consistent with policies and purposes.
 - 197-3 Definitions
 - DIRECT ACTIONS – actions planned and proposed for implementation by an applicant or agency, such as, but not limited to, a capital project, rulemaking, procedure making and policy making.
 - 197-4 B Review of actions
 -consistency with the policy standards and conditions set forth in Section III and IV of Local Waterfront Revitalization Program (LWRP)
- LWRP – Local Waterfront Revitalization Program
 - Section II – B – 1 Existing Land Use
 - Residential – are approximately 286 residential parcels, accounting for 358 acres in the 11,113 acre LWRP study area. The smallest residential properties occur along the lakeshore in clusters on Huntington Beach Road, Lake View Drive, Lakeshore Road and Somerset Drive.
 - Section II – B – 2 Zoning and Other Land Use Regulations
 - RLS Lake Shore Residential District – Approximately one-half of the entire lake shore falls into the RLS zoning district. Within this area, approximately 50 individual parcels are vacant and can possibly be developed for uses allowed in the district. Permitted uses are limited. They include single family residential dwellings and accessory structures on lots having a minimum area of 20,000 square feet and cluster residential developments (SUP) by special use permit.

- Section IV – Proposed Land and Water Uses and Proposed Projects
 - Excerpt: In general, the predominant land use along the waterfront is, and should continue to be residential. The numerous in-fill lots (approximately 50) along Somerset Drive, Lakeshore Road, Huntington Beach Road and Lakeview Drive should be developed for residential use, as allowed under the zoning code.
- Town of Somerset 2016 Comprehensive Plan Update
 - Page 2 – Purposes of Planning
 - Excerpt para 3: The revised Comprehensive Plan is the community's message to its residents, to developers, to industry and to other levels of government, that the Town of Somerset has given consideration to its environs and has proposed a program of development based upon sound planning principles and direction with public input and support.
 - Page 10 – Coastal Zone/Waterfront Areas
 - Excerpt paragraph 1: In 2005, The Town completed a LWRP which enabled stronger local control over development in the coastal zone....etc.