

REGULAR MEETING AND PUBLIC HEARINGS  
NOVEMBER 7, 2011

A Regular Meeting and Public Hearings of the Town Board of the Town of Somerset, County of Niagara and the State of New York were held at the Town Hall, 8700 Haight Road, Barker, New York on the 7<sup>th</sup> day of November 2011.

Present: Richard J. Meyers ----- Supervisor  
Randall J. Wayner ----- Councilman  
Daniel E. Engert ----- Councilman  
Gary R. Alt ----- Councilman  
Robin R. Jansen ----- Councilman  
Rebecca A. Connolly ----- Clerk  
Kenneth J. Bigelow ----- Supt. of Highways  
Melvin H. Denny ----- Supt. Water/Sewer/Grounds  
Morgan L. Jones Jr. ----- Counsel  
Randy D. Roeseler ----- Engineer

Attended by: Approximately 8 people

Supervisor Meyers called the meeting to order at 7:00PM with the Pledge to the Flag.

**PUBLIC HEARINGS –2012 Preliminary Budget Items**

Notice of said hearings was duly published in the Lockport Union-Sun & Journal on October 27, 2011 with same notice being posted at the Town Hall on the same date. Clerk Connolly read the notice of public hearings.

Supervisor Meyers opened the hearings at 7:03PM and asked if anyone wished to comment on the preliminary budget, amounts to be raised by taxation or the fire contract.

**Hearing #1 – Amounts to be raised by taxation in Special Districts**

No one spoke for or against.

**Hearing #2 – 2012 Preliminary Budget**

James Hoffman addressed the Board stating he obtained his information from the newspaper article and asked the following:

1. Questioned how the tax rate was derived.  
Clerk Connolly explained how the tax rate is derived.
2. Said he had no problem with the 2% wage increase.
3. Stated the PILOT payment was reduced significantly, unlike what the paper said that it was slightly. He said that is very misleading.
4. Questioned what the paper said that Town has put money in a reserve.  
Supervisor Meyers said there is always money in reserve.
5. Asked what the plans are for economic development as budgeted for.  
Councilman Engert said the Town was poised to spend money on the Verizon project. He said they (the Board) would like to bring economic opportunities to the Town and the Town is trying to anticipate for the future.
6. Questioned the unallocated funds.

Supervisor Meyers said those are funds remaining from previous years of money that was not spent.

Councilman Wayner said the fund balances are less than in 2010 as they are used to balance the budget.

7. Asked where the wind turbine money came from as it does not show in the budget. Supervisor Meyers said that there will be no funds spent in 2012 and that they probably should have been put in the 2011 budget.

Norman Jansen asked if \$200,000 is enough and if not, is there more money somewhere. Supervisor Meyers said this will be enough to aggressively pursue business development.

### **Hearing #3 – Fire Contract**

Supervisor Meyers asked if anyone had any comments regarding the Barker Fire Department Contract.

No one spoke for or against.

With all persons desiring to be heard, Supervisor Meyers closed the hearings at 7:31PM.

### **REGULAR MEETING**

Supervisor Meyers opened the regular meeting at 7:32PM.

#### RESOLUTION 126-2011

#### **APPROVAL OF MINUTES**

On a motion of Councilman Engert, seconded by Councilman Wayner, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen  
Nays 0

Resolved the minutes of the previous meetings are approved as submitted.

#### RESOLUTION 127-2011

#### **APPROVAL OF SUPERVISOR'S MONTHLY REPORT**

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

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen  
Nays 0

Resolved the Supervisor's Monthly report be accepted as submitted.

#### MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement  
Police Department  
Dog Control Officer  
Assessor

QUARTERLY REPORT RECEIVED AND FILED: Water/Sewer

**COMMUNICATIONS:**

Clerk Connolly reported a communication has been received from Time Warner Cable regarding increase in cable rates.

**REGIONAL GREENHOUSE GAS INITIATIVE (RGGI)**

Clerk Connolly stated a copy of a letter has been received from Assemblyman Hawley that he sent to Governor Cuomo encouraging the Governor to reconvene the Legislature to begin work on mandate relief and also referred to the impact that RGGI has on AES.

**WIND TURBINE STATUS**

Thomas Fleckenstein said the wind turbines are up and running. He said National Grid has signed off and he has obtained a certificate of compliance from Code Enforcement Officer Hildebrant. He stated they will return in 30 days to re-tension the guide wires and again in 180 days (April). He said the landscaping will be completed in the spring after the trenches have had time to settle. He said the system is automatic and he has gone through everything with Superintendent Denny. He said the production of the wind turbines can be tracked on-line and that he gave that information to Tracy Carmer and Clerk Connolly.

Superintendent Denny said the ground cables have to be pounded into the ground another foot or so.

Councilman Engert asked if the maintenance bond requirement has been met.

Mr. Fleckenstein said he is under obligation with NYSERDA (New York State Energy Research and Development Agency) to warranty his workmanship for five years. He said Bergey will warranty the inverters for five years and the turbines for ten years. He said maintenance wise there is really nothing to do to the inverters except to look at them. He said where they are sited, there will be a good air flow.

Attorney Jones said the Town needs the \$5,000 maintenance bond as per the resolution of August 11, 2010 and asked when NYSERDA will do their inspection.

Mr. Fleckenstein said NYSERDA will be inspecting the site on Thursday and that he will have the ground cables taken care of. He said he will be maintaining and inspecting the units once a year. He said the thing that usually goes wrong is the leading edge tape and will be inspected yearly.

Superintendent Denny questioned if the issue with the Cadmiss Company from Massachusetts has been resolved as he has a box of wire that was supposed to be installed on the units.

Mr. Fleckenstein said that we can allow them access to put monitoring equipment on the units, however, if there is anything done, Bergey will void the warranty. He said that he told them they would need an electrical drawing, liability insurance naming the Town as an additional insured and abide by the NY labor laws. He said he is protecting the Town.

Councilman Wayner asked if we have to let them do that in order to receive the grant money.

Mr. Fleckenstein said no and that he has stopped all communication with the company, but they went to NYSERDA.

Supervisor Meyers said when NYSERDA called him to have this company come onto our site to monitor the wind, he told them they cannot interfere with the project.

Mr. Fleckenstein said while under his warranty issues, no one can get into the inverter.

Superintendent Denny said that everything has been locked.

Discussion ensued if this company has a right to monitor the site; if it was part of the NYSERDA contract; and if the grant money will be in jeopardy if the Town does not allow them to monitor the project.

Councilman Engert asked Attorney Jones to investigate if the Town has to give them access in order to comply with the grant.

RESOLUTION 128-2011

**ADOPTION OF PROPOSED LOCAL LAW #7-2011 – SLOPE OF YARD LAW**

On a motion of Councilman Engert, seconded by Councilman Alt, the following resolution is

ADOPTED by Roll Call Vote	Supervisor Meyers	Aye
	Councilman Wayner	Aye
	Councilman Engert	Aye
	Councilman Alt	Aye
	Councilman Jansen	Aye

Resolved Local Law #7-2011 entitled Slope of Yard is approved as follows:

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

To amend the Code of the Town of Somerset as follows:

Chapter 205, Article III §205-11S is repealed and replaced with the following new Chapter 205, Article III §205-11S as follows:

- S. Slope of yards. Proper grading and drainage of any improved lot shall be provided to the reasonable satisfaction of the Code Enforcement Officer so as to adequately direct storm run-off away from the building foundation, avoid excessive draining of waters onto abutting properties and minimize risk of flood damage where flood hazard exists. As a guideline only, the surface grade of the front yard at the front wall of a principal building shall not be less than eighteen (18) inches above the elevation of the center line of the traveled way of the street or highway measured at the midpoint between the side lines of the lot.

This local law shall take effect immediately upon filing with the Secretary of State.

RESOLUTION 129-2011

**APPROVAL OF THE 2012 SPECIAL DISTRICT TAX ROLL**

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

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen  
Nays 0

Resolved the Special District Tax Roll for 2012 is approved as filed with the Town Board and Assessor.

RESOLUTION 130-2011

**APPROVAL OF THE 2012 BUDGET**

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

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen  
Nays 0

Resolved the 2012 Budget is adopted as presented.

RESOLUTION 131-11

**BARKER FIRE DEPARTMENT CONTRACT**

On a motion of Councilman Engert, seconded by Councilman Alt the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen  
Nays 0

Resolved the contract with the Village of Barker and the Barker Fire Department to provide fire and ambulance service for 2012 for \$225,000.00 is approved.

RESOLUTION 132-2011

**SALE OF PICKUP TRUCK**

Superintendent Denny reported two bids were received for the purchase of the 1998 Chevrolet 2500 4 wheel drive pickup truck with the highest bid being \$1,800.00.

On a motion of Councilman Engert, seconded by Councilman Alt, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen  
Nays 0

Resolved the high bid of \$1,800.00 from Brent Burns, 201 Grove Street, P.O. Box 149, Milesburg, PA 16853 for the sale of the 1998 Chevrolet 2500 4 wheel drive pickup truck is accepted.

RESOLUTION 133-2011

**WORKPLACE VIOLENCE PREVENTION PROGRAM**

Supervisor Meyers said that Clerk Connolly and Attorney Jones have compiled a comprehensive workplace violence prevention program for the Town.

On a motion of Councilman Alt, seconded by Councilman Wayner, the following resolution was

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen

Nays 0

Resolved the Workplace Violence Prevention Program is adopted. (Attached to minutes)

**PROPERTY TAX CAP**

Councilman Wayner said he has seen action around the county regarding overriding the property tax cap and understands that it is too late to do it for this year.

Attorney Jones said that in the event that you do not use the override, you carry over 1 ½% for next year's budget.

**BOARD OF ASSESSMENT REVIEW (BAR)**

Assessor Robert Glidden asked the Board to consider increasing the Board of Review to five members. He said that it needs to be done soon as the training is in March or April.

Supervisor Meyers said we were looking into having them appointed for a temporary term.

Attorney Jones said he would look into how to increase the BAR for a temporary term.

**PUBLIC COMMENT:**

James Hoffman addressed the Board regarding RGGI and he said the letter that Assemblyman Hawley sent to the Governor was too AES specific and that RGGI is a job killer. He said he would like a list of all the resolutions and send it to the legislators. He said that Assemblyman Friend from the 137<sup>th</sup> District is working on some legislation to override the RGGI action.

Councilman Engert said that he received a call from the Attorney for affidavits for the lawsuit that declares the specific impacts that it (RGGI) has on the community. He said there is legislation that is being reviewed for the repeal of New York's participation in the RGGI program. He said he would get a list of the supporters of the Town's resolution for Mr. Hoffman and that the tour (Taxation without Representation) has spurred on more citizen activist groups to be involved.

RESOLUTION 134-2011

**AUDIT OF CLAIMS**

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

ADOPTED Ayes 5 Meyers, Wayner, Engert, Alt, Jansen  
Nays 0

Resolved the bills, having been reviewed by the Town Board, are authorized for payment in the following amounts:

General Fund	No. 393 through No. 435	\$ 16,747.92
Highway Fund	No. 137 through No. 144	\$ 24,433.42
Sewer Fund	No. 137 through No. 142	\$ 2,042.67
Water Fund	No. 123 through No. 137	\$ 5,982.05

On a motion of Councilman Alt, seconded by Councilman Jansen, the meeting was adjourned at 8:45PM. Carried unanimously.

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Rebecca A. Connolly, MMC  
Town Clerk

## **TOWN OF SOMERSET WORKPLACE VIOLENCE PREVENTION PROGRAM**

### **POLICY**

The Town of Somerset ("Town") prohibits workplace violence. Violence, threats of violence, intimidation, harassment, coercion, or other threatening behavior towards people or property will not be tolerated. Complaints involving workplace violence will not be ignored and will be given the serious attention they deserve. Individuals who violate this policy may be removed from the Town property and are subject to disciplinary and/or personnel action up to and including termination, consistent with the Town of Somerset policies; rules; and /or referral to law enforcement authorities for criminal prosecution.

The Town, at the request of an employee or at its own discretion, may prohibit members of the public, including family members, from seeing an employee on Town property unless necessary to transact Town related business. This policy particularly applies in cases where the employee or the Town suspects that an act of violence will result from an encounter with said individual(s).

### **SCOPE**

All employees, members of the public, vendors, contractors, consultants, and others who do business with the Town, whether in a Town facility or off-site location where Town business is conducted, are covered by this policy. This policy also applies to other persons not affiliated with the Town, such as former employees and visitors.

### **DEFINITIONS**

Violence shall mean any form of threat, intimidation, or aggressive physical contact. Prohibited conduct includes, but is not limited to the following:

- **Threat:** the expression of intent to cause physical or mental harm. Such an expression constitutes a threat without regard to whether the person communicating the threat has the ability to carry it out, and without regard to whether the threat is made on a present, conditional or future basis.
- **Physical attack:** unwanted or hostile physical contact such as hitting, pushing, kicking, shoving, throwing of objects or fighting.
- **Intimidation:** includes but is not limited to stalking or engaging in actions, either verbal or physical, which frighten or coerce.
- **Property damage:** intentional damage to or destruction of property owned by the Town, Town personnel, persons contracted by the Town, seasonal or part-time Town employees, volunteers, customers or anyone else on Town property.
- **Possession of dangerous weapon:** including a firearm, explosive or dangerous device or using an object as a weapon on Town property or during a Town related activity except when acting within the scope of one's job duties.
- **Stalking** another employee
- **Using abusive or obscene language** or gestures in a threatening manner.

### **NOTIFICATION AND REPORTING OF INCIDENTS**



All Town personnel are responsible for notifying their supervisor immediately of any violence or threat of violence, either direct or indirect. Even without a specific threat, all employees should report any behavior they have witnessed that they regard as being potentially threatening or violent or which could endanger the health or safety of any employee when the behavior might be or has been carried out on a Town-controlled site or is connected to Town employment or Town business. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threatening behavior and the person or persons being threatened. When employees have complaints about other employees, they should contact their supervisor. If their supervisor is unavailable, contact the Town Supervisor or Town Clerk at 795-3575.

### **CONFIDENTIALITY**

The Town understands the sensitivity of the information requested. The Town shall maintain the confidentiality of investigations of workplace violence to the extent possible to respect the privacy of the reporting employee.

### **DEALING WITH POTENTIALLY VIOLENT INDIVIDUALS**

If you witness a potentially violent situation, or are dealing with a threatening or violent person, do not place yourself in danger. If possible, escape the scene and immediately contact your supervisor or local law enforcement authorities.

#### WHAT TO DO:

- Project calmness. Move and speak slowly and confidently.
- Listen attentively and encourage the person to talk.
- Actively listen and respond to the individual.
- Maintain a distance of three to six feet between you and the other person.
- Arrange yourself so your exit is not blocked.

#### WHAT NOT TO DO:

- Don't make sudden movements that may be perceived as threatening.
- Don't make physical contact.
- Don't stand in challenging stances, such as hands on hips, or with arms crossed.
- Don't threaten, criticize or act impatient.
- Don't invade the personal space of the individual.
- Do not touch the threatening or violent individual.

### **RESTRAINING AND PROTECTIVE ORDERS**

An employee who applies for or obtains a protective or restraining order against another person, should notify the Supervisor's Office or his or her immediate supervisor so that the other person's presence on Town property can be known as a danger.

### **TOWN RESPONSE TO THREATS AND VIOLENCE**

The Town will promptly and thoroughly investigate reports of threats of (or actual) violence and of suspicious individuals or activities. Disciplinary action and/or legal prosecution will be pursued against Town personnel, and those outside the organization for violating this policy.

### **PROTECTION**

The identity of the individual making the report will be protected as much as practical. In order to maintain workplace safety and the integrity of its investigation, the Town may suspend employees or volunteers suspected of violence or threats of violence, either with or without pay, pending investigation.

### **WORKPLACE VIOLENCE TRAINING**

Training will be provided by the Town and shall be mandatory for all employees.

### **RETALIATION**

Retaliation against anyone acting in good faith who has made a complaint of workplace violence, who has reported witnessing workplace violence, or who has been involved in reporting, investigating or responding to workplace violence is a violation of this policy. Those found responsible for retaliatory action will be subject to discipline up to and including termination.

**WORKPLACE RISK ASSESSMENT** was completed on October 13, 2011. Employee questionnaires were distributed on October 24, 2011 and are currently being returned. A workplace risk assessment will be done annually.

### **COVERAGE**

The Town may from time to time modify this policy to comply with future state and/or federal legislative action. In the event the policy is revised, a copy of the revised policy will be provided to each employee.

### **FORMS ATTACHED:**

1. Workplace Violence Incident Report Form
2. Employee Security Survey Form
3. Policy Acknowledgment Form
4. Training Acknowledgment Form

### **REFERRAL TO DEPT OF LABOR**

If at any time an employee feels they are not being treated fairly when reporting a workplace violence incident, they may contact:

NYS Department of Labor

Public Employee Safety and Health Bureau

65 Court, Street, Room 401

Buffalo, NY 14202

Phone: 716-847-7133 Fax: 716-847-7108

**TOWN OF SOMERSET**  
**Workplace Violence Incident Report Form**

**NOTE:** Any serious/criminal conduct which poses immediate or continuous threat should be reported to the appropriate police agency (911) immediately.

**THIS FORM MUST BE USED TO DOCUMENT any reportable workplace violence incident.** For any incident, an employee must submit this completed form to the Department Head or supervisor immediately. The Department Head/supervisor is responsible for forwarding this form to the Town Supervisor within 48 hours.

Victim's Name	
Job Title	
Department/Location	
Date and Time of Incident	
Location of Incident	
Name/Job Title of Individual Filing this Report	
Work Phone Number	
Date Incident Report Completed	
Date Incident Report Received by Dept Head/Sup	
Date Incident Report Received by Town Supervisor	

List any individuals who may have witnessed this incident:

Witness Name/Job Title	Witness Work Phone Number

Check the type of violence the victim experienced (Check all that apply):

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Intimidation     | <input type="checkbox"/> Psychological Trauma                        | <input type="checkbox"/> Shouted at Directly                             |
| <input type="checkbox"/> Bullying         | <input type="checkbox"/> Swore at Directly                           | <input type="checkbox"/> Threat of Assault                               |
| <input type="checkbox"/> Verbal Abuse     | <input type="checkbox"/> Obscene Phone Call                          | <input type="checkbox"/> Threatening Phone Call                          |
| <input type="checkbox"/> Harassment       | <input type="checkbox"/> Obscene Email/or other social network means | <input type="checkbox"/> Threatening Email/or other social network means |
| <input type="checkbox"/> Shouting         | <input type="checkbox"/> Being followed or stalked                   | <input type="checkbox"/> Pushing   |
| <input type="checkbox"/> Swearing         | <input type="checkbox"/> Swore at directly                           | <input type="checkbox"/> False Statements                                |
| <input type="checkbox"/> Obscene Gestures | <input type="checkbox"/> Striking with an Object                     | <input type="checkbox"/> Throwing Objects                                |
| <input type="checkbox"/> Striking/Kicking | <input type="checkbox"/> Sexual Assault                              | <input type="checkbox"/> Stabbing  |
| <input type="checkbox"/> Grabbing         | <input type="checkbox"/> Homicide                                    |  |
| <input type="checkbox"/> Shooting         |  |  |

Please provide a detailed description of the incident, including what happened immediately prior to the incident and how the incident ended. (Use additional sheet if more room is needed)

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Assailant/Perpetrator	√	Name	Address	City	State
Member of the Public	<input type="checkbox"/>				
Employee's Spouse	<input type="checkbox"/>				
Employee's Significant Other	<input type="checkbox"/>				
Employee's Supervisor	<input type="checkbox"/>				
Co-Worker	<input type="checkbox"/>				
Former Employee	<input type="checkbox"/>				
Other (specify)	<input type="checkbox"/>				

Did Police respond to the incident?  Yes  No

If yes, name of the Police Department \_\_\_\_\_

Date and time \_\_\_\_\_

Was a police report filed?  Yes  No Report No. \_\_\_\_\_

Was the victim injured?  Yes  No

If yes, please specify the injuries and the name and location of the facility that provided medical care:

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\_\_\_\_\_  
Signature

Date: \_\_\_\_\_



What could be done to make you feel more secure under any of these circumstances? \_\_\_\_\_

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What training do you feel would help create a more productive and safe work environment?

- Conflict resolution       What to do if subjected to workplace violence       How to prevent harassment in the workplace       How to implement effective counseling and corrective discipline

Other (Please specify)

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Please indicate any other concerns with respect to workplace violence that you would like to address:

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**Thank you for completing this survey.**

**TOWN OF SOMERSET**

**WORKPLACE VIOLENCE PREVENTION POLICY**

**I hereby acknowledge that I have received and read a copy of the Town of Somerset Workplace Violence Prevention Program approved by the Town Board on \_\_\_\_\_ 2011.**

**Date:** \_\_\_\_\_

**Print Full Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

## **TRAINING ACKNOWLEDGEMENT FORM**

I have been informed of the Town's policy regarding workplace violence and the procedures in place to minimize risks. I hereby acknowledge that I have received training on the dangers of workplace violence, identified risk factors and available prevention methods, and my responsibilities and rights with respect to addressing the potential for workplace violence.

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Date of Training

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Employee Name (Please print)

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Signature of Employee

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Date of Signature