

FEBRUARY 12, 2015 – REGULAR MEETING

Minutes of a regular meeting of the Town Board, Town of Somers held on Thursday evening February 12, 2015 at 6:30 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT: Supervisor Rick Morrissey  
Councilman Thomas A. Garrity, Jr.  
Councilman Anthony J. Ciriaco  
Councilman William G. Faulkner

ABSENT: Councilman Richard G. Clinchy

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that it was in order for the Board to enter into an executive session with regard to personnel.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, the meeting was adjourned to an executive session at 6:30 PM with regard to personnel to return that evening.

7:05 PM meeting reconvened

PUBLIC COMMENT:

There being no one to be heard by motion of Supervisor Morrissey, seconded by Councilman Ciriaco, public comment session was declared closed.

Approval of minutes

The first item on the agenda was the approval of the minutes.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby adopt the minutes of the January 8, 2015 Organizational Meeting, the January 8, 2015 Work Session and the January 15, 2015 Regular Meeting.

Monthly reports

The Town Clerk presented monthly reports from the Town Clerk, Building Inspector, Parks and Recreation, Tax Receiver, Planning and Engineering, Zoning, Plumbing and Bureau of Fire Prevention.

United Way of Westchester and Putnam

The Supervisor said that the next item on the agenda was a discussion with Mr. Peter West of the United Way of Westchester and Putnam. He said that Mr. West was present to explain the services available through the United Way. Mr. West said that he mostly wanted to discuss 211. He explained that 211 was a wonderful service that the United Way provided. He said that they fielded roughly 40,000 calls a year from Long Island to the Adirondacks. Mr. West said that people call with questions regarding Health and Human Services, Emergency Needs and Recycling questions. He said that the 211 Call Center was based in White Plains in the Office of the United Way. He said that there was also a website people could use 24/7 and that gave roughly the same information and referrals. Mr. West said that the Call Center was open from 9:00 AM to 7:00 PM, 7 days a week. He continued that they had thousands of Governmental and Non-Profit Agencies that assist them. He explained that this time of year they get a lot of calls with regard to home heating oil assistance and tax preparation help. Mr. West said that they also assist with a lot of employment help situations. He asked if he could leave information with regard to the 211 Service at the Town House for the residents. The Supervisor said that he could leave the

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information of the Information table in the Meeting Room and that they would place the information on the Town website.

DEIS for  
Somers  
Crossing

The next item was with regard to accepting the Draft Environmental Impact Statement (DEIS) for Somers Crossing as complete and authorize the circulation to interested agencies pursuant to the requirements of the New York State Environmental Quality Review Act (SEQRA) and schedule a public hearing for March 5, 2015. The Supervisor said that he had stated before and he wanted to go on the record by stating, when the Memory Care Center was removed from the Plan and 20 more Townhouse units were added he felt that was too dense for that Site. He said that it was his understanding that the Developer was going to consider a lesser number of units than 80.

Mr. Richard O'Rourke, Keane and Beane, PC, stated that the Supervisor's comment was exactly what would be addressed through the process. He said that as the Board was aware the DEIS was the applicant's document and the process called for that document to be reviewed and commented upon. He said that environmental impacts were going to be identified and through the process mitigated. Mr. O'Rourke explained that mitigation could take many forms. He said that as it stood at that point they had the applicant's proposal and at the end of the process hopefully it will be a project that the Town would be happy to have in Town. He said that they were at the point of time to have the SEQRA process commence in earnest. Mr. O'Rourke said that there was an awful lot of dialog and comments back and forth and they believed that the document for the purposes of circulation was adequate as the Scoping content. He said as the Town Board was aware the Scope was intense. He stated that they were requesting that the document be accepted for the purposes of commencing circulation.

The Supervisor said at this time the Board would like to hear the opinions of the Town's Consultants as to their impression of completeness.

Mr. Fred Wells, Tim Miller Associates, stated that the sections that his Firm reviewed were found to be satisfactory in terms of completeness. He said that Woodard and Curran were reviewing other sections that had been progressing through that week. He said at this point the document looked as if it was ready for circulation as he indicated in his letter that afternoon. Mr. Wells said that all of the Consultants concerns were in their initial memos with regard to the completeness of items not addressed too well in the DEIS. He said that they were willing to pass those items forward for the public comment period and work them out then. He said that Woodard and Curran had utility concerns that needed a detailed look at and that was a stumbling block through that day.

The Supervisor said at the end of the Consultants presentation he would ask Mr. O'Rourke to come back and confirm agreement that further work was needed on specific items.

Mr. Joseph Barbagallo, Woodard and Curran, said that they met at the work session and he had indicated that there was some work that still needed to be done. He said that he had been working diligently with Mr. Tim Allan, Engineering Consultant for the Applicant, since early Monday morning. He continued that significant progress had been made. Mr. Barbagallo said that they had all the information in the document that was needed to address the Scope as Mr. Wells had mentioned. He said that there were items that during the preparation of the FEIS there was going to be more analysis needed. He said that as of right now they were comfortable having the public hearing because the information was in the document. Mr. Barbagallo stated that part of the process was to move into a deeper analysis, that was call a subsequent review and the second stage of the EIS Review, which was what they were moving towards. He said that he had specific items that he could go over with the applicant and he was comfortable moving forward as long as the applicant acknowledged that more analysis was going to have to be done as part of the FEIS process.

Councilman Cirieco asked if Mr. Barbagallo thought that they were going to uncover something. Mr. Barbagallo said that they did not think they were going to uncover

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anything. He said that they were comfortable based on their review that there was enough information to do the analysis. He explained that what was not there was a better weaving of the information for a lay person to read and cross references to make and document more cohesive. Mr. Barbagallo said that there had been sufficient work done and he would not okay with going to public comment unless he was satisfied that they had the information. Councilman Ciriaco asked if something was found how that was remediated. Mr. Barbagallo explained that it was dealt with as part of the FEIS.

Councilman Garrity asked Mr. Barbagallo if he was suggesting that the Board accept the DEIS, hold the public hearing, keep the hearing open and the items that were being questioned would be handled as part of the FEIS. Mr. Barbagallo explained that they would be addressing the concern concurrently. He said that they would be making comments and working with the applicant concurrently while receiving the public comments. Councilman Garrity said that when they spoke at the last meeting they thought that this would all be handled in a week. He asked what the time line was at that point. Mr. Barbagallo explained that there were 2 steps in the SEQRA process after the Scope was developed, established and adopted by the Town Board as Lead Agency. He continued that the first step was DEIS completeness, meaning does the DEIS contain the information to address the Scope. He said that the second step was a subtenant review, in the DEIS they were not checking calculations they were making sure everything was in the document in accordance with the regulations. Mr. Barbagallo said that may dig into details and find that items may need to be modeled differently, that was substantive rather than completeness. Councilman Garrity said that it would be answered, discussed and completed into the FEIS. Mr. Barbagallo said that was correct and it would be rolled into the project with any additional mitigation that may be required prior to the Town Board taking final action in the Finding Statement.

The Town Attorney explained that there were two levels of review and what the Town's Consultants were stating was that the DEIS was complete to get to the purpose of the public hearing. He said that when they open the hearing on the DEIS the Town's Consultants were going to have critical memos that were going to need to be responded to by the applicant. He said that was because some of the analysis was not sufficient. Mr. Barbagallo said that it was just like a comment from the public the applicant would have to respond and address the concerns.

The Supervisor said that he would like to hear from Mr. O'Rourke on the comments of the Town's Consultants. He said that the Board had to have a level of confidence in the level of completeness and they heard that. He said they also heard that there were other things that needed to be vetted out between then and the public hearing. Mr. O'Rourke said that he thought that they were in agreement for purposes of the DEIS the information was put together and it was complete when compared to the Scope that was adopted by the Town. He explained that once the comments were received by the public, Consultants and interested agencies the burden was on the applicant to answer all of the questions and those answers were incorporated into the FEIS. He said that the Town Board had to accept the FEIS as being prepared and being responsive to all of the questions that were raised. Mr. O'Rourke said that after the FEIS had been tabulated and reviewed the Board would make the determination as to accept the FEIS. He continued after that the Town Board would have to adopt a Finding Statement that was their finding as a Board that SEQRA had been fully met.

The Supervisor said that he thought that they had reached a milestone that evening. He said that they were hearing from their Consultants that it was their recommendation the DEIS was complete to the extent it needed to be. He asked the Board if there was any other discussion or concerns. There were none. Mr. Wells stated that he had drafted language for the Resolution and the Town Attorney stated that the language was acceptable. The Supervisor said that they also needed to schedule the public hearing on the DEIS for March 5, 2015.

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Thereupon motion of Supervisor Morrissey, seconded by Councilman Garrity, it was unanimously,

RESOLVED, that the Town Board does hereby accept the Draft Environmental Impact Statement (DEIS) regarding the Somers Crossing, as last revised February 12, 2015, as complete for the purpose of public review. The Applicant shall file and circulate the accepted DEIS and the Notice of Completion of the DEIS as set forth in NYCRR Section 617.12(b) and,

DOES FURTHER RESOLVE, that the Town Board will hold a public hearing on the DEIS and on the proposed Local Law to amend Chapter 170 entitled Zoning, Section 170-13 Multifamily Residence MFR Districts of the Town Code, on Thursday, March 5, 2015, at 7:00 P.M. The public comment period will extend for at least ten days after the close of the hearing.

Town  
Pool  
discussion

The Supervisor said that the next item was a discussion with regard to a Town Pool. He said that the Board had been petitioned by a group of residents who would like to establish a Town Pool. He said that he asked the Superintendent of Parks and Recreation and the Chairman of the Parks and Recreation Board to attend that evening's meeting to discuss the process. The Supervisor said that this was a process that the Town had been through in the past. He said that at this point he asked them to comment on the history and what procedures the Town had been through in the past.

Mr. Jim Papa, Chairman of the Parks and Recreation Board, said that the Town had discussed the possibility of a pool in the past. He said that the last time was in 2006-2007 and that never went to a Referendum Vote. He said that the project spiraled in cost and the Town Board decided to vacate the whole process. Mr. Papa said prior to that attempt in 1997 to 2000 there was about 1000 residents that approached the Board requesting a Town Pool. He said that they went through the process that took about 3 years and cost the Town a good amount in Rec Fees to get to the point of Referendum and it was defeated substantially. He said that there was at least 3 other attempts prior to those, they had been down this road before and every time it was either defeated at Referendum or the Town Board decided not to go ahead with the idea.

The Supervisor said that he wanted the residents to hear the history and he understood that there were new residents in the Town and an obvious desire. He said that he wanted the Town Board to hear from those who wanted the Town Pool and from those who opposed a Town Pool. He said that he did not want to invest Tax Payers money in design and studies as was done in the past. The Supervisor said that he had done some research and the Town had spent close to \$300,000.00 on past pool studies. He said that what he hoped to come out of this meeting was direction for those who wanted a pool and what they wanted. He said that it was the Town's job to come up with a location and he would charge the Chairman of Parks and Recreation and the Superintendent of Parks and Recreation with that task. The Supervisor said that he wanted to be upfront with the residents, he did not want to commission another study that was going to cost the Tax Payers money.

Mr. Papa said that the Parks and Recreation Board according to their Master Plan had several projects on their agenda all the time. He said that obviously the pool was an item, it was on their Master Plan for both an indoor complex and an outdoor complex. He continued that a Community Recreation Center with a Gym was another project and field expansion was always an issue in the Town. Mr. Papa said giving the current economic conditions the Parks and Recreation Board had prioritize those projects. He said that he felt that most residents recently expressed having a Recreational Community Center with a Gym. He said when a pool was being discussed they had to consider what would happen to the other projects that were on the agenda. Mr. Papa said that if it was decided that the pool was a priority then the Parks and Recreation Board would move that way. He said that he wanted them to realize that a Community Center and field expansion was very important in the Town.

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Ms. Linda Simpson, Somers, said that she left the Board members information with regard to the benefits of a Community Pool. She read a prepared statement with regard to the need for a public space for everyone in the Community to meet during the summer months, the loss of revenue to other Towns who have pools and the many benefits that could be realized. She asked that Board to authorize a formation Committee to create a survey to gage public interest that evening.

Mr. Aidrian O’Conner, Purdys, President of the Lake Purdy Property Owners Association, said that he represented 85 Families that stood in opposition to a Town Pool. He stated that this was going to negatively affect all of the Lake Communities. He read a list of possible locations that were open for swimming around the Town.

The Board received several comments from residents both for and against a Town Pool.

Councilman Clinchy present at 8:05 PM

A number of the comments were requests for a comprehensive survey of the Town with regard to the residents desire to have a Town Pool.

Councilman Garrity and Councilman Clinchy both expressed interest in working with a Committee to work on a survey. The Supervisor said that he did not think that a Committee was needed at that time. He said what they needed was information about structuring a survey. He said that the Town Board would like to hear what their concept for a pool and what was envisioned. Ms. Simpson said that they wanted the Board to commission the formation of the small Committee of Parks and Recreation Board members and a few members of the public to do this together. She said that this needed to be official and recognized by the Town Board. Discussion ensued with regard to putting together a survey. Councilman Garrity volunteered assist the interested residents to develop a survey. Councilman Clinchy said that he would be part of the Committee as well.

8:55 PM – 5 minute break  
9:00 PM – meeting reconvened

Request for the placement of an antenna on Ross Drive Water Tank

The next item on the agenda was with regard to the Ross Drive Water Tank located in Shenorock and a request by Verizon. The Supervisor said that the request was for Verizon to place an antenna on the Water Tower and it had been a recurring request from them. He said that every time they make a request he brings it to the attention of the Town Board. Councilman Garrity asked what the amount was they were willing to pay to place the antenna on the Water Town. The Supervisor said that he was not sure that they received an amount for that because they had never gotten that far with the request. He said that he had always gone back to Verizon with the possibility of expanding their FIOS Service into the Town. He said even if this was considered that the Board would have a public hearing because there are many people who were opposed to the placement of the antenna. The Town Attorney said that they were usually willing to pay quite a bit of money to be on the Water Tower. It was agreed that the Supervisor would contact Verizon and request some photos examples of other locations and what the revenue stream was that they were considering.

Town Board Liaison Report

The Supervisor said that the next item on the agenda was the Town Board Liaison reports. He said that he was hoping to have this report for the Board members quarterly. He said that the first was Building Department and Zoning Board of Appeals and the liaisons were Councilman Garrity and Councilman Faulkner. Councilman Garrity stated that the Zoning Board of Appeals had been slow as usual, although that they were starting to pick up. He said that they still needed a member for that Board. The Supervisor said next was Budget, Audit, Finance, Tax and Assessment. He said that the Town was approaching the audit season and they were working with the Finance Director to get their information together. He said that with regard to Tax, they were closed on the last day on Tax Receipt and gave

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one day of amnesty without penalty. The Supervisor said that next item was Highway. Councilman Garrity said that he met with the Highway Department after the last storm and he was sure that everyone would agree that they were doing a great job with the roads. He said that Superintendent was continuing to purchase vehicles off the Government Surplus list. Councilman Clinchy said that he wanted to add that the Commercial Plowers should clean the snow off the roads where they were plowing. The Supervisor said that he wanted to add that if someone lived near a fire hydrant and were able to they should shovel three feet around the hydrant. He said that the next item was with regard to the Library. Councilman Garrity said that the Board of Trustees was a strong Board and they were doing a great job. He said that installation of the furniture was finished and the counter tops would be installed on Monday. Councilman Clinchy said that he wanted to mention that the dumpster that was needed for the renovation was donated by City Carting. The Supervisor said that the next item was Substance Abuse/Partners in Prevention. Councilman Cirioco said that they were doing extremely well and they had a new Chair. He said that there were a couple of things that were going on, first they were looking to put together a logo. He continued that they were working with one of the Art Teachers in the Middle School and he showed that Board what they had come up with. Councilman Cirioco said that there was also an event on February 24, 2015 with Bobby Petricelli, he was going to talk to the students during the day and in the evening with the Parents. The Supervisor said that he would place that information on the Town website. Councilman Cirioco said that they were also going the met with the Director of Finance with regard to funding and fund raising. The Supervisor said that the next item was with regard to Parks and Recreation. Councilman Garrity said that he had met with the Parks and Recreation Board and there was some public interest in a Town pool. The Supervisor said the next item was with regard to the Energy Environment Committee. Councilman Clinchy said that the Energy Environment Committee met with an Engineer which the Town Board had authorized to begin looking at a plan in order to go for funding for sidewalks. The Supervisor said that next item was Police and Fire. Councilman Faulkner said that he spoke to the Police Chief and they were happy and had no issues. He said that he also met with Mr. Fitzgerald of the Somers Fire District and they had a very nice, well attended Holiday Party last month. The Supervisor said that the next item was with regard to the Architectural Review Board. Councilman Faulkner said that they were meeting two weeks from that evening and there was a proposal for Street Signs commemorating the Soccer State Championship Title. The Supervisor said that the next item was Emergency Preparedness. He said that they were working to update the Town of Somers Emergency Management Plan. He said that there was a group that consisted of the Fire Department, Police Department, Water Department, Building Department and the Engineering Department.

Purchase of one new 12' Stainless Steel Spreader with Ground Speed Controls

The next item was to authorize the purchase of one new 12' Stainless Steel Spreader with Ground Speed Controls to be installed on Military Chassis from Zwack, Inc. The Supervisor explained that this would be purchased off Oneida County's Bid list. Councilman Faulkner asked what the fair market value was for the spreader for comparison. The Supervisor said that he would have to get that information from the Highway Superintendent.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Garrity, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the Superintendent of Highways to purchase one (1) new 12' Stainless Steel Spreader with Ground Controls installed on Military Chassis from Zwack, Inc. in the amount of \$27,655.00 to be purchased off the Oneida County Bid #1685 per memo dated February 4, 2015 from Thomas E. Chiaverini, Superintendent of Highways.

PERSONNEL:

Current Vacancies:

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Somers Energy Environmental Committee  
Affordable Housing Board (1 – unexpired 2 year term ending July 11, 2015)  
Affordable Housing Board (4 – 2 year terms ending July 11, 2015)  
Assessment Board of Review (1 – unexpired 5 year term ending September 30, 2015)  
Library Board of Trustees (1 – 5 year terms ending December 31, 2014)  
Zoning Board of Appeals (2 – 5 year terms ending December 31, 2014)

Upcoming Vacancies:

Parks and Recreation Board (3 – 3 year terms ending March 9, 2018)

Reappoint  
R.Carpaneto  
and A.Guyot  
to the ZBA

The Supervisor said that it was in order to reappoint Mr. Ronald A. Carpaneto and Mr. Arnold F. Guyot to the Zoning Board of Appeals.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirieco, it was unanimously,

RESOLVED, that the Town Board does hereby reappoint Ronald A. Carpaneto to the Somers Zoning Board to a five (5) year term ending December 31, 2020.

RESOLVED, that the Town Board does hereby reappoint Arnold F. Guyot to the Somers Zoning Board to a five (5) year term ending December 31, 2020.

Lord  
Wetland  
Application

The Supervisor said that the next item was a review and comment with regard to the Lord Wetland Application, 48.17-1-5. It was agreed that the Town Board would return no comment back to the Planning Board.

Consensus  
agenda

The next item on the agenda was the consensus agenda. The said that that he would like to add an item number 8 to the consensus agenda. He said that would be to authorize the application filed by Police Officer Curtis Dustin for wages and benefits under Section 207c of the General Municipal Law.

Thereupon motion of Councilman Clinchy, seconded by Councilman Faulkner, it was unanimously,

Procedures for  
Dog Control  
Officer

1. RESOLVED, that the Town Board does hereby authorize the following procedures be taken by the Dog Control Officer when a dog is kept more than three (3) days at the South Salem Animal Hospital per memo dated January 29, 2015 from Town Clerk, Kathleen R. Pacella:

1. Search the BAS program in the Town Clerk’s office by breed of dog lost so those owners can be contacted to see if they lost a dog.
2. Notification is to be given to the surrounding town and/or their Dog Control Officer.
3. Contact should be made to the local shelter.
4. Send information to the newspaper and request to be published,
5. Continuous contact with South Salem Animal Hospital for regular updates.
6. Post flyers in public locations in the Town.
7. Assist with getting the dog adopted after the ten (10) day holding period runs out.

Budget  
modifications

2. RESOLVED, that the Town Board does hereby authorize the following budget modification per memo dated January 25, 2015 from Rick Morrissey, Supervisor:

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RESOLVED, that the Town Board does hereby authorize a budget modification for repairs and replacement of Transmission & Distribution System Amawalk-Shenorock Water District expenses that were higher than anticipated per memo dated December 31, 2014 from Adam Smith, Superintendent of Water and Sewer.

From: 051-8320.0400 – Source of Supply, Power & Pumping  
\$35,000.00  
To: 051-8340.0400 – Transmission & Distribution Contractual  
\$35,000.00

Refund  
Erosion  
Control  
Bonds

3. RESOLVED, that the Town Board does hereby authorize the refund of the following Erosion Control Bond and SEQRA Fees per memos from Syrette Dym, AICP, Director of Planning & Steven Woelfle, Principal Engineering Technician:
- a. \$2,412.50 – SEQRA Fee to Whispering Pine Garden Center.
  - b. \$6,252.27 – SEQRA Fee to Goldmark 35 Assoc. aka/Sampson Management
  - c. \$4,516.00 – Erosion Control Bond – Silvio Management Corp. 17.11-1-5 & 8.
  - d. \$3,000.00 – SEQRA Fee to Cedar Haven Subdivision.

Accept  
Bonds

4. RESOLVED, that the Town Board does hereby authorize the acceptance of \$500.00 – Ford (DiMarino) – Stormwater Management and Erosion and Sediment Control Permit – 5.13-1-12 per memo dated January 20, 2015 from Wendy Getting, Senior Office Assistant.

Return  
Erosion  
Control  
Bond

5. RESOLVED, that the Town Board does hereby authorize the return of \$5,483.00 Erosion Control Bond to Jan-Pat Realty, LLC per memo dated January 14, 2015 memo from Steven Woelfle, Principal Engineering Technician.

Return Bond

6. RESOLVED, that the Town Board does hereby authorize the return of \$20,000.00 Bond for Incomplete Items for Jan-Pat Realty for the issuance of a Temporary Certificate of Occupancy per memo dated January 30, 2015, from Steven Woelfle, Principal Engineering Technician.

Accept Bond

7. RESOLVED, that the Town Board does hereby authorize the acceptance of a Bond in the amount of \$10,000.00 posted by Tern Construction & Development, LLC for Incomplete Items for the issuance of a Certificate of Occupancy for the Mews at Baldwin Place Phase II Site Plan per memo dated February 5, 2015 from Steven Woelfle, Principal Engineering Technician.

Application  
filed by P.O.  
Dustin

8. RESOLVED, that the Town Board does hereby authorize the application filed by Police Officer Curtis Dustin dated September 12, 2014 for wages and benefits under Section 207C of the General Municipal Law.

The Supervisor urged everyone to take precautions over the next few days of cold weather.

Councilman Garrity said that before the meeting adjourned he thought that the Board should have a moment of silence for the passing of Ms. Peggy Volmar. He explained that Ms. Volmar was the Town Receiver of Taxes and a Town Employee for many years.

Claims for the payment of all Town Bills in the amount of \$518,184.09 were presented and allowed for payment as shown on the Abstract of Audited Claims on file in the office of the Town Clerk.

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Thereupon motion of Councilman Faulkner, seconded by Councilman Garrity, the meeting was adjourned at 9:35 PM.

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Town Clerk