

FEBRUARY 14, 2013 – REGULAR MEETING

Minutes of a regular meeting of the Town Board of the Town of Somers held on Thursday evening February 14, 2013 at 6:40 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT: Supervisor Mary Beth Murphy
 Councilman Richard G. Clinchy
 Councilman Frederick J. Morrissey
 Councilman Thomas A. Garrity, Jr.
 Councilman Anthony J. Ciriaco

ABSENT:

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 matters.

Thereupon motion of Supervisor Murphy, seconded by Councilman Morrissey, the meeting was adjourned to an executive session with regard to personnel at 6:40 PM to return that evening.

7:40 PM – meeting reconvened

The Supervisor said that it was in order for the Board to open a public hearing with regard to a proposed Local Law containing proposed amendments to the Town of Somers Zoning Code, Chapter 170 in relation to the provisions of the NS Zoning District. The proposed local law modifies the permitted uses to permit apartments over non-residential uses rather than just apartments over stores, and adds a new provision which would permit apartments on the first floor without non-residential uses on properties of a certain size and meeting other criteria and where a determination is made that non-residential uses will not be marketable on parts of the site, and where at least 50% of the proposed apartments will be Affordable Dwelling Units.

7:40 PM – hearing opened

8:40 PM – meeting reconvened

PUBLIC COMMENT:

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

The Supervisor said that she had a few announcements that she would like to share. She said that the 7 young Somers women won writing contests and she would like to extend the Board's congratulations to them.

The Supervisor said that she had a meeting with Spectra Energy; they owned the Algonquin Gas Transmission line, which went through the area. She said that they were making an application to the Federal Energy Regulatory Commission to change out two pipes to 40 inch transmission pipes. She explained that they hold easements for the lines and they will be reaching out to the people who would be effected with a letter of notification. The Supervisor said that they would also be holding public meetings to discuss what their plans were and what they would be doing. She said that she just wanted to give people notice that this would be coming. She said that the work was not anticipated for several years, they were starting the process in the Spring.

Approval of
the minutes

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

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

RESOLVED, that the Town Board does hereby approve the minutes of the December 13, 2012 Public Hearing regarding Chapter 96 Filming; the December 12, 2013 Regular Meeting; the January 3, 2013 Organization Meeting; the January 10, 2013 Public Hearing regarding Chapter

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158 V&T – Stop sign at the south east corner of Wood Street and Moseman Avenue and the January 13, 2013 Regular Meeting.

Monthly reports

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

The Supervisor said that the next item on the agenda was several agreements with regard to Parks and Recreation. She said that the third item, the Change Order, they needed to add pending the Town Engineer's review and approval.

Thereupon motion of Supervisor Murphy, seconded by Councilman Clinchy, it was unanimously,

Purchase and installation of Fencing for the Dog

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute Agreement for the purchase and installation of Fencing for the Dog Park in the amount of \$24,727.12 with Commercial Fence Co per memo dated February 7, 2013 from Steven Ralston, Superintendent of Parks & Recreation.

Custom Exhaust and Fire Suppression System in the Concession Stand

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute Agreement for the purchase and installation of Custom Exhaust and Fire Suppression System in the Concession Stand in the amount of \$6,700.00 with Custom Hoods Corp. per memo dated February 7, 2013 from Steven Ralston, Superintendent of Parks & Recreation.

Additional work Pony League Field Drainage Project

RESOLVED, that the Town Board does hereby authorize Change Order in the amount of \$11,000.00 with R. Pugni and Sons for addition work on the Pony League Field Drainage Project per memo dated February 7, 2013 from Steven Ralston, Superintendent of Parks & Recreation.

Set budget for Pony League Field

The next item was to authorize the Director of Finance to set a budget of \$100,000.00 for the Pony League Field. The Supervisor said that they received a grant for the work; initially the funding will come out a Rec Fees and then be reimbursed from the grant they received from Senator Ball.

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

RESOLVED, that the Town Board does hereby authorize Director of Finance to set a budget of \$100,000.00 from Recreation Fees for the Pony League Field Drainage project to be fully reimbursed by the DASNY grant per memo dated February 7, 2013 from Steven Ralston, Superintendent of Parks & Recreation.

Award the Concession Contract to LipOp, LLC

The Supervisor said that the next item was to award the Concession Contract to LipOp, LLC. She said that she knew that Councilman Garrity and Councilman Clinchy worked with the Parks and Recreation Board with regard to this and asked if they would like to update the Board on that.

Councilman Clinchy explained where the Concession Stand was going to be located. He said that they unanimously choose two people from Somers with experience. He said that they promised to have a lot of healthy choices and it was going to be a place that people could spend time. Councilman Clinchy said that the people who were awarded the contract were very excited and enthused and the prices that they were offering were very reasonable.

Councilman Garrity said that they were also going to be hiring all local kids to work the concession stand so this would be creating jobs. He said that their plan was a good one and they were very professional. He said that this should be good for everyone. Councilman Garrity said that they had hoped to be up and running by April.

Councilman Clinchy said that they were Somers residents and they were going to be onsite owners and that usually meant a better business. He said that they were also focused on customer service and training their employees to serve the public.

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Thereupon motion of Councilman Garrity, seconded by Councilman Cirioco, it was unanimously,

RESOLVED, that the Town Board does hereby award the Concession Contract to LipOp, LLC in the amount of \$25,000.00 beginning April 1, 2013 through November 31, 2015 with the possible extension for two additional seasons, per memo dated February 12, 2013 from Steven Ralston, Superintendent of Parks & Recreation.

Letter from
Insite
Engineering
reg. Sewer
District

The next item on the agenda was a discussion with regard to a letter received from Insite Engineering dated January 7, 2013. The Supervisor explained that this letter was regarding property owners that were aware that The Green was interested in entering the Sewer District and they requested that they also be included. Councilman Garrity said that it made sense to include these properties if The Green was accepted. He asked for clarification of what was located in that area.

A Resident explained that there were two residences and two commercial properties. Councilman Clinchy asked if they were all on the same side of the street. The Resident said that they were.

The Supervisor said prior to their more recent correspondence the County had sent correspondences over the course of multiple years recommending that the Town looked at the sewer issue on a global fashion and not just on a parcel by parcel basis. She said that their most recent letter had indicated otherwise. She said that she had a meeting recently in which the County was represented as well as Cortlandt, Peekskill and Yorktown where they were discussing the Peekskill Sewer Plant and what all the different Towns thoughts, ideas and needs were. The Supervisor said that there was an effort to try to come up with a more collective cohesive thought about how the plant was to be used.

The Resident said that the Green was putting in a pumping station and they were asking to be added to their pumping station. He said that when there was the problem with the water pollution the Town promised them water and sewer. He continued that they delivered on the water but not the sewer. The Resident said that the sewer was put in across the street and they were not connected to it. The Supervisor explained that to be connected they needed to become part of the Sewer District which was through an application and that has to be authorized by the County. The Resident said that they were supposed to be part of the Sewer District with Somers Commons. He continued that by the time they found out about it they were too late to be included.

Councilman Cirioco asked what the process was for them to be included into the Sewer District. The Supervisor explained that first they would have to be included into the local District, which was fairly easy because it was a decision that the Town Board made. She continued that assuming that the Board allowed them into the local District there would be an application to the County for inclusion into the County Sewer District. She said that petition to the County was made by the Town Board. The Supervisor said that she was not sure if Somers Commons went into the Sewer District the same time as the Preserve went into the Sewer District. Ms. Whitehead stated that they were an out of District user. The Supervisor said that Ms. Whitehead was correct and asked if they went into the District when the Planned Hamlet went in. Ms. Whitehead said that she was not sure if they were in the District, they still may be a partial user, an out of District user. The Supervisor remembered that they were an out of District user. Ms. Whitehead said that was something that was rarely allowed.

Councilman Cirioco asked if there were interconnection costs associated. The Supervisor said that there were and explained how that worked and how the buy-in was set up.

The Supervisor said as they discuss this issue with regard to the petition that they had received for The Green they will take into consideration their parcels as well.

PERSONNEL:

Current Vacancies:

Somers Energy Environmental Committee

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Assessment Board of Review (1 – 5 year term to December 31, 2016)
Assessment Board of Review (1 – 5 year term to September 30, 2017)
Substance Abuse Council (2 – unexpired 3 year terms to December 31, 2013)
Substance Abuse Council (2 – unexpired 3 year term to December 31, 2014)

Upcoming Vacancies:

The Supervisor said that it was in order to appoint Mr. Kevin Schick to the Assessment Board of Review to a term ending September 30, 2016. She said that it was in order to appoint Mr. Bart Landsky to the Assessment Board of Review to a term ending September 30, 2017. She said that it was in order to appoint Ms. Caroline Shenefield to the Substance Abuse Council for a term ending December 31, 2014. The Supervisor said that it was in order to appoint Mr. Louis Christiansen to the Substance Abuse Council for a term ending December 31, 2014.

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

Appoint K.
Schick to
BAR

RESOLVED, that the Town Board does hereby appoint Kevin M. Schick to the Board of Assessment Review for a five (5) year term ending September 30, 2016.

Appoint
B. Lansky
to BAR

RESOLVED, that the Town Board does hereby appoint Bart Lansky to the Board of Assessment Review for a five (5) year term ending September 30, 2017.

Appoint C.
Shenefield
Angiello to
SAC

RESOLVED, that the Town Board does hereby appoint Caroline Shenefield Angiello to the Substance Abuse Council for a one (1) year term ending December 31, 2014 to serve at the pleasure of the Board.

Appoint L.
Christiansen
to SAC

RESOLVED, that the Town Board does hereby appoint Louis Christiansen to the Substance Abuse Council to a one (1) year term ending December 31, 2014.

Change in
title for P.
Miller to
Probationar
y Library
Director II

The Supervisor said that it was in order to authorize the change in title for Ms. Patricia Miller to Probationary Library Director II at her same salary.

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

RESOLVED, that the Town Board does hereby authorize change in title for Patricia Miller to Probationary Library Director II for a minimum of twelve weeks to a maximum of fifty-two weeks, at an annual salary of \$78,905.00 per memo dated January 18, 2013 from Barbara J. Sherry, Confidential Secretary to the Supervisor.

Resignation
of M.
Pacella
from the
Somers
Police Force

The Supervisor said that it was in order to acknowledge with regret the resignation of Mr. Michael Pacella from the Somers Police Force. She said that Mr. Pacella had been on the Somers Police Force for over 27 years and had very faithfully served the Town of Somers. She said that he knew almost every child in Town once they got their drivers' license; he made it his responsibility to meet and chat with them to help keep them safe on the roads. The Supervisor said that Mr. Pacella was also a New York City Police Officer for 20 years before joining the Somers Police Force. She said that Mr. Pacella attended countless Town Parades and Town events all to enhance the quality of life that they had in Somers. She said that he will be missed although they knew he would not be a stranger. Councilman Clinchy said that Mr. Pacella had already volunteered for one of their Boards. The Supervisor said that he did and he had been an active member of the Town for many years. She said that as many knew, Mr. Pacella owned the Hot Dog truck in the Park for many years. She thanked Mr. Pacella for his excellent service to the Town.

Councilman Morrissey said that he wanted to add his thanks to Mr. Pacella for his years of service to the Town.

Councilman Garrity said that he wanted to express his gratitude as well.

Councilman Clinchy said that Mr. Pacella was a wonderful man and they were lucky to have him in Somers.

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Thereupon motion of Supervisor Murphy, seconded by Councilman Garrity, it was unanimously, RESOLVED, that the Town Board does hereby accept with regret the resignation of Michael Pacella as Somers Police Officer effective February 26, 2013.

Review and comment of a proposal BBS Subd (FKA Stevens Subd)

The Supervisor said that the next item on the agenda was with regard to a review and comment of a proposal BBS Subdivision (FKA Stevens Subdivision). She explained that it was on the other side of the bike trail and the Town Board had discussed this years ago. She said that the applicant had gotten an easement for the construction of a common driveway across the North County Trail Way. The Supervisor said that a previous Town Board was concerned about the aspect of crossing the trail which was used by pedestrians. She said that this was still a concern. She said that the applicant wanted to basically put a road in and they did not have an easement for a road. The Supervisor said that the easement was just for a driveway. The Board agreed with the Supervisor's concerns.

Consensus agenda

The next item was the consensus agenda. The Supervisor said with regard to item number 1 she would like to add the authorization to replace the gutter on the Annex in the amount not to exceed \$1,235.00. She said with regard to item number 4 there were additions. She said with regard to item number 5 the referral should also go to Police. The Supervisor said that there were also the additions of items number 7 to 12. Councilman Clinchy asked with regard to item number 2 where the letter was going to be sent. The Supervisor said that it was being sent to the Governor Cuomo and Commissioner Mac Donald, Commissioner of New York State Department of Transportation.

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

Award proposals for repair of the Town House Annex Roof, Park Administration Building, Reis Park Pavilion, the Doug Out and Gutter Replacement

1. RESOLVED, that the Town Board does hereby award proposals for repair of the Town House Annex Roof in the amount of \$320.00, Park Administration Building in the amount of \$460.00, Reis Park Pavilion in the amount of \$3,118.00 and the Dug Out in the amount of \$200.00 to L Mark Construction and,

DOES HEREBY, give authorization for the Town House Gutter Replacement by L Mark Construction in the amount not to exceed \$1,235.00.

Letter of support for Bike & Pedestrian Funding

2. RESOLVED, that the Town Board does hereby authorize a letter of support for Bike & Pedestrian Funding per email dated January 10, 2013 from Herb Oringel, Chair, Somers Energy Environment Committee.

Budget modification

3. RESOLVED, that the Town Board does hereby authorize approval of the following Budget Modifications per memo dated January 31, 2013 from Mary Beth Murphy, Supervisor:

RESOLVED, that the Town Board does hereby authorize a budget modification for fuel costs being higher and a higher number of clients per memo dated January 8, 2013 from Barbara Taberer, Nutrition Director:

From: A6773/A6772.1 – Part-time Food Service

To: A6775.406 – Gas \$2,000.00

RESOLVED, that the Town Board does hereby authorize a budget modification for 963 meals over – SNAP per memo dated January 15, 2013 from Barbara Taberer, Nutrition Director:

From: A6772.401 – Subcontractors \$250.00
 A6772.406 – Miscellaneous \$200.00
 A6773.404 – Paper Trays & Utensils \$250.00
 A6775.405 – Repairs \$980.00

To: A6773.401 – H.D.M. Meals - \$1,600.00
 A6773.406 – Miscellaneous \$ 80.00 \$1,680.00

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Return
Erosion
Control
Bonds

4. RESOLVED, that the Town Board does hereby authorize the return of the following Erosion Control Bonds per memos from Steven Woelfle, Principal Engineering Technician:
- a. \$500.00 – Abbate – Steep Slope Permit – 27.18-1-34.
 - b. \$300.00 – Casola – Wetland Permit – 48.09-1-19.
 - c. \$100.00 – Coral Seal Pools (Allesandro) Erosion & Sediment Control Permit – 26.16.1-18.
 - d. \$100.00 – Sherwood Landscape Architect (Schwartz/Sherwood) Erosion & Sediment Control Permit – 59.05-2-1.
 - e. \$100.00 – Mohan Wetland Permit – 16.20-2-11.
 - f. \$200.00 – Klein – Steep Slope Permit – 27.17-1-14.
 - g. \$200.00 – Brett Properties – Wetland Permit – 28.09-1-10.
 - h. \$500.00 – Faeth – Steep Slope Permit – 37.19-1-14.
 - i. \$2,900.00 – Cinq Associates (Le Fontane Restaurant) Site Plan Resolution No. 96-08 – 38.13-1-1.

Refer the
Proposed
Elevator Key
Law

5. RESOLVED, that the Town Board does hereby refer the Proposed Elevator Key Law to the Fire District, Building Inspector and Police Chief for review and comment per memo dated January 9, 2013 from the Bureau of Fire Prevention.

Schedule public
hearing for
partial waiver of
Rec Fees for The
Mews II at
Baldwin Place

6. RESOLVED, that the Town Board does hereby authorize the scheduling of a Public Hearing for March 14, 2013 for partial waiver of Recreation Fees for The Mews II at Baldwin Place per letter dated January 14, 2013 from Rosemarie Noonan, Executive Director of the Housing Action Council.

Accept Erosion
Control Bond

7. RESOLVED, that the Town Board does hereby accept Erosion Control Bond in the amount of \$500.00 for Bockhaus Wetland & Tree Removal Permit – 16.06-2-46, per memo dated February 7, 2013 from Wendy Getting, Senior Office Assistant.

Execute the Revocable
Land Use Permit –
Project 1728, Plum
Brook Stormwater
Retrofit Maintenance

- 8a. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Revocable Land Use Permit – Project 1728, Plum Brook Stormwater Retrofit Maintenance per letter dated February 5, 2012 from Paul Lenz, Section Chief, City Land Stewardship.

Execute the
Revocable Land Use
Permit Fee Waiver
and Request for five
(5) Year Permit
Renewal of Angle Fly
Trail Network

- 8b. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Revocable Land Use Permit Fee Waiver and Request for five (5) Year Permit Renewal of Angle Fly Trail Network per letter dated January 7, 2012 from Paul Lenz, Section Chief, City Land Stewardship.

Resignation
of B. Prince
from ARB

9. RESOLVED, that the Town Board does hereby acknowledge the resignation of Bruce Prince from the Architectural Review Board effective January 16, 2013, per e-mail dated January 16, 2012 to Supervisor Mary Beth Murphy.

Change in
Group for
CSEA
members
and change
in title for
CSEA
member

10. RESOLVED, that the Town Board does hereby authorize the following effective January 1, 2013 per memo dated February 14, 2013 from Mary Beth Murphy, Supervisor:
- a. Change Senior Office Assistant (Automated Systems) from Group IV to Group IV-A in the CSEA contract and place Tammi Savva and Wendy Getting at Step 6 at a salary of \$51,339.00.
 - b. Placement of position Assessment/Tax Aide in Group III in the CSEA Contract and place Barbara Brandt on Step 8 at a salary of \$40,614.00.

decline the
donation of 3
Lakeshore
Drive South

11. RESOLVED, that the Town Board does hereby decline the donation of 3 Lakeshore Drive South Tax Map 5.19-3-85.

Authorize
settlement of
Pepsico Tax
Certiorari

12. RESOLVED, that the Town Board does hereby authorize settlement of Pepsico Tax Certiorari per memo dated January 30, 2013 from Ira Levy, Certiorari Special Counsel:

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WHEREAS, petitions having been filed by the property owner, below challenging real property tax assessments on the Town’s assessment roll with respect to the following parcels:

<u>Property Owner</u>	<u>Address Description</u>	<u>Year(s)</u>
PEPSICO (Bottling Group, RDB/YBY/PSI Holdings)	Section 38.18, Block 1, Lot 1 (One Pepsi Way)	2004-2012

WHEREAS, petitioner’s tax certiorari proceedings are now pending in Supreme Court, Westchester County; and

WHEREAS, the Town and the property owner have reached a resolution with regard to the assessments at issue in the tax certiorari proceedings; and

WHEREAS, the Town has reviewed the settlement and has found that the terms of the settlement are reasonable; and

WHEREAS, the settlement of these proceedings are in the best interests of the Town;

NOW THEREFORE BE IT RESOLVED, the Tax Certiorari Special Counsel to the Town is authorized to execute settlement documents on behalf of the Town for assessments for no less than the following:

Year	Current Assessment	Settlement Assessment	Assessment Reduction
2004	12,000,000	10,818,600	1,181,400
2005	12,000,000	9,576,000	2,424,000
2006	12,000,000	9,198,000	2,802,000
2007	12,000,000	8,748,000	3,252,000
2008	12,000,000	8,437,500	3,562,500
2009	12,000,000	8,541,000	3,459,000
2010	12,000,000	8,869,500	3,130,500
2011	12,000,000	9,375,000	2,624,200
2012	10,920,000	9,100,000	1,820,000

The Town of Somers’ share of the refund is \$241,347.89±

The Supervisor wished everyone a Happy Valentine’s Day.

Councilman Clinchy said that tomorrow night at 6:00 PM was the Sectional Basketball Game at Somers High School. He said that he also wanted to congratulate John Decker for setting a School Record of 59 points in his last game. The Supervisor said that the team had done fabulous this year.

Claims for the payment of all Town Bills in the amount of \$580,557.43 were presented and allowed for payment as shown on the Abstract of Audited Claims on file in the office of the Town Clerk.

Thereupon motion of Supervisor Murphy seconded by Councilman Garrity, the meeting was adjourned at 9:15 PM.

Town Clerk