

MAY 17, 2012 – PUBLIC HEARING

Minutes of a Public Hearing of the Town Board of the Town of Somers held on Thursday evening May 17, 2012 at 7:40 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

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

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 this was a continuation of a public hearing with regard to an unsafe and dangerous structure located at 133 Mahopac Avenue, Somers known as Tax ID 26.08-1-11. She said that at the last meeting the property owner had indicated that they would secure the property with fencing and get an Architect's plan to repair the building. She said that the report that she had from the Building Inspector's office that morning was there was no fence in place and that it looked like no work had been done. She said that unsigned plans were dropped off to the office and Mr. Lieto was told that a stamped set of plans by either an Architect or Engineer were required.

The Supervisor declared the hearing opened and asked for comments from the public.

Mr. Dominick Lieto, the property owner, said that he had a problem having an Architect sign the plans because it was an old building. He said that tomorrow was his last day of chemo which he had underwent for the last ten months. He said that he was going to have a month off of the chemo and he was going to take care of the building then.

Councilman Garrity said that they had been talking about this for the last three months and he knew that this had been a problem for longer than that. He said that he went out to the property that day in the hopes that there would at least be a fence in place and there was not. He said three months ago he told the Board that placing a fence around the property would be no problem. Councilman Garrity said that this was an unsafe building, he was asked to place a fence around it and there was still no fence. He said that he looked at the property and there were paint cans out front, he was starting to look at the property from an environmental standpoint. He said the Mr. Lieto told them repeatedly that he would put a fence in, it had been three months and he felt that they had given him plenty of time to at least put a fence up. Councilman Garrity said that the fence would also protect Mr. Lieto if someone were to go on to the property and get hurt. He said that he believed that the car was removed. Mr. Lieto said that the Town removed the vehicle; he did not have it removed. He said that was another question, he would like to know where the vehicle was. The Supervisor said that no one on the Town Board had the vehicle removed. Mr. Lieto said that it must have been the Police Department, which had happened to him on another property with a trailer. He said that he was going to move the vehicle back and it was missing as well as some scaffolding he had there was taken. The Supervisor said that the property was open and available to people. Mr. Lieto said that no one ever took anything from the property. He said that he was going to check with the Police Department. Councilman Garrity said that was an issue that Mr. Lieto had to look into, there still was the problem that there was trash all over the property and the site was unsafe. He said that he wanted a fence there and Mr. Lieto would state that he was going to put a fence up and not do what he said. Mr. Lieto said that he was going to put a fence around the structure and place posted signs. Councilman Garrity said that he told them he would do that three months ago. Mr. Lieto said that he was going to put up the fence after he was finished with his treatment.

The Supervisor said that the Board was very sympathetic to his personal situation although they were also concerned with the safety of others. She said that it was a very well-traveled road, approximate to the bike path, there were a lot of youths and adults that used the bike path and someone could get seriously injured. She said that the public safety concern was what prompted the whole process. The Supervisor said that part of the problem he was having getting an

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Engineer sign off on the plan was because the building was not salvageable. Mr. Lieto said that some of the structure was in good shape everything needed to be closed in and the wall needed to be put in. He said it was just that they wanted a new building. He said that maybe he would have to talk to someone and get new plans to go for a new building. Mr. Lieto said at this time he just wanted to put up a new wall, close the structure in and fix the roof so that it would be safe. Councilman Garrity said that Mr. Lieto was repeating the same plan that they had for the last two meetings.

Mr. Lieto said that there was a building up the street from his property that was unsafe for many years. He said that structure was a lot worse than his. Councilman Garrity said that Mr. Lieto's building had been there for years as well and the building that he was referring to had been taken down. The Supervisor said that the building that Mr. Lieto was referring to went through the same process as Mr. Lieto was and they directed the property owner to take the structure down.

The Supervisor asked the Town Attorney what the next step was. The Town Attorney explained that the Board could close the public hearing and start taking action and any cost incurred would become a lien against the property. He said for instance to secure the property with a fence they would have to have the Highway Department do that. He continued that they would have to keep track of their time and cost of materials to place the fence up. The Town Attorney said that they could also get proposals of how much the demolition of the structure would cost as well as trying to secure the structure. He said those were the two steps that the Board could take other than adjourning the hearing to the next month.

The Supervisor said that it was the Building Inspector's opinion that the building was not salvageable and should be demolished. She said that seemed to be the appropriate direction. Councilman Benedict asked the Town Attorney what the liability of the Town would be if they did not take action that evening and this continued. He asked if the Board was putting themselves in jeopardy with the residents of the Town. The Town Attorney said that the site was a danger on and it may be prudent for the Board to at least take the first step and place a fence around the structure and not wait for the property owner to do so. Councilman Benedict said that he thought that they owed that obligation to the residents of the Town. Councilman Garrity agreed with Councilman Benedict. Mr. Lieto asked the Board to give him least thirty days to put a fence up. Councilman Garrity said that they had given him more than thirty days. He said that he liked the Town Attorney's idea and they should have the Highway Department place a fence around the property and keep track of their costs. He said that his main issue was health and safety of the residents at this point. The Supervisor said that the Board would have to close the public hearing to start the process. The Town Attorney said that they did have to close the public hearing in order to take action that did not mean that Mr. Lieto could not come back to the Board. He explained that meant that they were not in public hearing session, they were in public meeting session and apparently there had been no other interest.

Councilman Morrissey summarized that they close the public hearing that evening and they contact the Highway Department at their most convenient time they are to fence in the property. He asked in the interim if Mr. Lieto decided that he did not want to incur a lien on his property was he precluded from placing a fence on his property. The Town Attorney said that it did not. Councilman Morrissey asked Mr. Lieto if that was a middle ground for him. Mr. Lieto said that he was asking for thirty days, they should do what they had to do and he would do what he needed to. He said that if the Police Department took his car out of his driveway and did not notify him there was going to be an action. Councilman Morrissey said that if there was property missing from his property he needed to call the Police.

Councilman Garrity said that they needed to proceed forward to make the property safe and get a fence around the property. He said that entailed closing the public hearing. He said that his hope was that they get a fence around the property and Mr. Lieto came back in thirty days and had plans that stated how he was going to fix the building. Mr. Lieto said that he was going to work on it.

Councilman Clinchy asked if the Town Board needed to determine what type of fence was to be placed there. The Town Attorney said that the Highway Department would want to know. Councilman Benedict said that it should be a fence that identified to the public that there was a danger there and not to enter the property. Mr. Lieto said that people could still go through the fence. The Supervisor said that it was an indication that stated that they should not be on the

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property. She said that it would also be a good idea to place signage that stated people should keep out of the property. Mr. Lieto said that he also had scaffolding there to work on the building and it disappeared from the property. He said that it was the same person who took the van took the scaffolding. The Supervisor said that was not what they were there to discuss that evening. She said that their concern was that the property that was before them presently be made safe. She said that in her opinion the building needed to be knocked down and that was also the opinion of the Building Inspector. The Supervisor said that Mr. Lieto had not brought them anything. Mr. Lieto said that he brought in a plan but it was not signed. The Supervisor said that he did not; he brought in a picture of a wall. She said that it was something that he could have downloaded from the internet, it was not specific to any particular building, there were no particular heights or anything of that nature associated with it. Mr. Lieto said that the other three walls were okay, it was just the one wall that pushed out because of a vehicle.

Councilman Morrissey said that what was on the table at this point was that they would move to close the public hearing and they would direct the Highway Department to put up a fence. He said that did not preclude Mr. Lieto from taking that action beforehand. He said that in thirty days they would be sitting there again and deciding if the building should be demolished. Councilman Morrissey said that in the meantime if he had vehicles that he believed were missing from the property he should contact the Police Department. Mr. Lieto said that he thought that the Police Department were the ones who took the vehicle and if he had to bring that action he would.

There being no one else to be heard on motion of Councilman Garrity, seconded by Councilman Clinchy, the public hearing was declared closed at 7:50 PM

Town Clerk

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Minutes of a Public Hearing of the Town Board of the Town of Somers held on Thursday evening May 17, 2012 at 7:52 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

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

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 this was a public hearing with regard to a proposed Local Law to transfer duties of the former Conservation Board to the Open Space Committee.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Journal News on May 8, 2012 and posted on the Town Clerk's bulletin board the same day.

The Supervisor declared the hearing opened and asked for comments from the public.

Councilman Clinchy asked if those who were on the Conservation Board could be on the Open Space Committee. The Supervisor said that if they would like to be on the Open Space Committee that they should contact her. Councilman Morrissey said that when they had the conversation with the Conservation Board the members who had the desire were invited to join the Open Space Committee. The Supervisor said that she would make sure that they reached out to the members of the Board but if anyone was interested to contact her.

There being no one to be heard on motion of Supervisor Murphy, seconded Councilman Garrity, the public hearing was declared closed at 8:00 PM.

Town Clerk