

MAY 14, 2015 – REGULAR MEETING

Minutes of a regular meeting of the Town Board Town of Somers held on Thursday evening May 14, 2015 at 6:05 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT: Supervisor Rick Morrissey
Councilman Richard G. Clinchy
Councilman Thomas A. Garrity, Jr.
Councilman William G. Faulkner

ABSENT: Councilman Anthony J. Ciriaco

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 contract negotiations.

Thereupon motion of Supervisor Morrissey, Councilman Faulkner the meeting was adjourned to an executive session with regard to contract negotiations at 6:05 PM to return that evening.

7:15 PM – meeting reconvened

The Supervisor invited the two Boy Scouts who were present that evening to lead the Pledge of Allegiance. Councilman Garrity introduced Boy Scouts Declan Talleur and Eric Danmeyer and explained that they were both working towards earning their Eagle Scout Award and needed to attend a Civic Event. He said that they were both great young men who work well with the younger Scouts.

The Supervisor said that it was in order for the Board to open a public hearing with regard to a proposed Local Law to consider adding Chapter 135 entitled Property Maintenance to the Code of the Town of Somers.

7:15 PM – hearing opened
7:25 PM – meeting reconvened

The Supervisor said that it was in order for the Board to adopt a Negative Declaration with regard to a proposed Local Law to consider adding Chapter 135 entitled Property Maintenance to the Code of the Town of Somers.

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

RESOLVED, that the Town Board does hereby adopt a Negative Declaration with regard to a proposed Local Law to consider adding Chapter 135 entitled Property Maintenance to the Code of the Town of Somers.

The Supervisor said that it was in order for the Town Board to adopt a Local Law to consider adding Chapter 135 entitled Property Maintenance to the Code of the Town of Somers.

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

RESOLVED, that the Town Board does hereby adopt a Local Law to consider adding Chapter 135 entitled Property Maintenance to the Code of the Town of Somers as follows:

A Local Law to Amend the Code of the Town of Somers by adding Chapter 135 entitled Property Maintenance.

Be It Enacted by the Town Board of the Town of Somers as follows:

Chapter 72 entitled BRUSH, GRASS AND WEEDS is hereby rescinded.

Chapter 135. PROPERTY MAINTENANCE

§135-1. Legislative intent.

The Town Board of the Town of Somers hereby determines that it is necessary for the health, safety, appearance and general welfare of the residents of the Town of Somers to provide a method whereby improved properties and public lands within the Town are clean, properly maintained and free from vermin, nuisances, hazards, debris and litter. The Town Board acknowledges the existence of the Property Maintenance Code of New York State (2010) as amended and that its administration and enforcement is the responsibility of the Building Inspector. The provisions of said Code are incorporated herein and made a part hereof.

§135-2. Enforcement and compliance; notice of violation.

A. Any owner, tenant, or occupant of any property responsible for the creation of an offense in violation of this chapter located within the Town of Somers shall remove such offense when ordered to do so by the Building Inspector within thirty (30) days of the service of written notice of violation as provided in Subsection C below.

B. Any person responsible for the creation of an offense in violation of this chapter affecting a public street or other public property within the Town of Somers shall remove such offense when ordered to do so by the Building Inspector or his representative within thirty (30) days of the service of written notice of violation as provided in Subsection C below.

C. All written notices of violation under this section shall be served on the owner, tenant, or occupant, responsible for the creation of such offense on any property located within the Town of Somers by posting a copy of such violation notice upon the front portion of the property or upon the main structure and by mailing a copy of such notice by certified mail/return receipt requested, to the owner of the property as shown on the latest assessment rolls of the Town. In the case of any person responsible for the creation of an offense existing upon a public street or public property, notice may be personally served on such person or mailed by ordinary mail to such person at such person's last known address.

D. The Building Inspector shall be responsible to direct the proper securing of dumpsters, containers or enclosures upon all properties, and such officer shall provide written notice of violation to the owner, tenant, occupant or other party as provided in Subsection C, which shall require the removal within thirty (30) days of any vermin, nuisance, hazard, debris or litter thirty (30) days of any vermin, nuisance, hazard, debris or litter not properly secured within a dumpster, container or enclosure.

E. In the event that a Notice of Violation issued to an owner, tenant, or occupant on any property located within the Town of Somers is not remedied to the satisfaction of the Building Inspector within the time provided for in the Notice of Violation, a Summons shall issue returnable in Justice Court of the Town of Somers.

§135-3. Penalties for offenses.

A. Any person found guilty of a violation of any provision of this chapter shall be punished by a fine of not less than \$250. to a maximum of \$500. Any person found guilty of a second offense of any provision of this chapter within 18 months of the date of the first conviction shall be punished by a fine of not less than \$500 and not more than \$1,000. Any person found guilty of a third offense of any provision of this chapter within 18 months of the date of the second conviction shall be punished by a fine of not less than \$2,500. and not more than \$5,000. Any person found guilty of a fourth or subsequent offense of any provision of this chapter within 18 months of the date of the third conviction shall be punished by a fine of not less than \$5,000. and not more than \$7,500.

B. The continuation of an offense against the provisions of this chapter shall constitute, for each week the offense is continued after issuance of the Notice of Violation, a separate and distinct offense hereunder.

§135-4. Removal by Town; charges.

A. Upon the failure of an owner, tenant or occupant, responsible for the creation of such offense to comply with a notice to correct a condition as cited within the days allotted, the Town Board may hold a public hearing. The public hearing shall be held upon notice posted conspicuously on the affected property and forwarded to the last known address of the property owner, as it appears on the current tax records of the Town, by certified mail, return receipt requested. Posting and service of such notice shall not be less than 10 days prior to the date of such hearing.

B. The Town Board, after a public hearing as provided in Subsection A, may cause any vermin, nuisance, hazard, debris or litter as defined in this chapter to be removed from any property within the Town of Somers upon the failure of such owner, tenant or occupant to comply with any order of the Town Board. Said removal shall be performed by a private contractor hired by the Town. The Town Board shall ascertain the cost of the proceeding and the costs of removal, and such costs shall be charged and assessed against the owner of the property. The expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges.

C. The removal of any vermin, nuisance, hazard, debris or litter by the Town of Somers or its agents shall not operate to excuse such owner, tenant or occupant from properly maintaining any premises as required by this chapter, and such owner, tenant or occupant shall, notwithstanding such action, be subject to any other penalties for herein.

§135-5. Vacant or abandoned properties.

A. Upon failure to respond and comply with the requirements of the notices described in §135-2C within 30 days from posting and mailing, the Building Inspector will perform an inspection of the premises and submit a detailed report to the Town Board describing the level of vermin, nuisance, hazard, debris or litter as defined in herein. The Official will further investigate and detail the circumstances of the abandonment of the premises, as well as perform due diligence regarding the current status of the property. The report will also contain the scope of the work required to remove any vermin, nuisance, hazard, debris or litter affecting the health, safety and welfare of the neighboring properties, residents and the public at large.

B. Upon receipt and review of the report, the Town Board may, by resolution, authorize the necessary work to be done and pay the cost thereof out of general Town funds appropriated by the Town Board for such purpose.

C. The Town shall seek reimbursement for the cost of the work performed or the services rendered through any means permitted by law and/or by assessment against the

owner of the property. The expense so assessed shall constitute lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner as other Town charges in the manner provided for the assessment of the cost of public improvements pursuant to Article 4, §64, 5-a of the Town Law of the State of New York (general powers of town boards, removal of fire and health hazards and weeds), as amended.

§135-6. Severability and partial invalidity.

If any section of this chapter shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this chapter.

§135-7. Effective date. This Local Law shall be effective immediately upon filing of same with the Secretary of State of the State of New York.

PUBLIC COMMENT:

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

Approval
of the
minute

The Supervisor said that 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 February 5, 2015 Work Session; the February 12, 2015 Regular Meeting; the March 5, 2015 Public Hearing with regard to the DEIS Somers Crossing Project and proposed Local Law to amend Chapter 170 entitled Zoning, Section 170-13C Multifamily Residence MFR District; the March 5, 2015 Work Session; the March 12, 2015 Regular Meeting and the April 2, 2015 Work Session.

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.

Annual
Stormwater
and MS4
Report

The next item on the agenda was that Annual Stormwater and MS4 Report. Ms. Syrette Dym, Director of Planning went through a PowerPoint presentation with the Board and answer their questions. She stated that the presentation and the full report were available on the Town of Somers website.

Refunding
Bond
Resolution

The Supervisor said that the next item was with regard to a Refunding Bond Resolution with regard to the Angle Fly Preserve. He said that the Finance Director and the Town's Bonding Agent approached him with the possibility of Refunding the Bond. He said that by doing so at that time the Town would save about \$351,000.00 over the life of the Bond.

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

REFUNDING BOND RESOLUTION DATED MAY 14, 2015.

A RESOLUTION AUTHORIZING THE ISSUANCE PURSUANT TO SECTION 90.00 OR SECTION 90.10 OF THE LOCAL FINANCE LAW OF REFUNDING BONDS OF THE TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK, TO BE DESIGNATED SUBSTANTIALLY "PUBLIC IMPROVEMENT REFUNDING (SERIAL) BONDS", AND PROVIDING FOR

OTHER MATTERS IN RELATION THERETO AND THE
PAYMENT OF THE BONDS TO BE REFUNDED THEREBY.

WHEREAS, the Town of Somers, Westchester County, New York (hereinafter, the “Town”) heretofore issued \$4,100,000 Public Improvement (Serial) Bonds, 2006, pursuant to duly authorized bond resolutions dated September 7, 2000 and July 7, 2005 authorizing said serial bonds for the acquisition of certain parcels of land for active and passive park and recreational purposes, and a bond determinations certificate of the Supervisor (hereinafter referred to as the “Refunded Bond Certificate”), such Public Improvement (Serial) Bonds, 2006, now outstanding in the amount of \$3,200,000, maturing on May 1 annually in each of the years 2016 to 2036, both inclusive, as more fully described in the Refunded Bond Certificate; and

WHEREAS, it would be in the public interest to refund all or a portion of the \$3,095,000 outstanding principal balance of said bonds maturing in the years 2017 to 2036, both inclusive (the “Refunded Bonds”) by the issuance of refunding bonds pursuant to Section 90.00 or Section 90.10 of the Local Finance Law; and

WHEREAS, such refunding will result in present value savings in debt service as so required by Section 90.10 of the Local Finance Law; NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Somers, Westchester County, New York, as follows:

Section 1. For the object or purpose of refunding the \$3,095,000 outstanding principal balance of the Refunded Bonds, including providing moneys which, together with the interest earned from the investment of certain of the proceeds of the refunding bonds herein authorized, shall be sufficient to pay (i) the principal amount of the Refunded Bonds, (ii) the aggregate amount of unmatured interest payable on the Refunded Bonds to and including the date on which the Refunded Bonds which are callable are to be called prior to their respective maturities in accordance with the refunding financial plan, as hereinafter defined, (iii) the costs and expenses incidental to the issuance of the refunding bonds herein authorized, including the development of the refunding financial plan, as hereinafter defined, compensation to the underwriter or underwriters, as hereinafter defined, costs and expenses of executing and performing the terms and conditions of the escrow contract or contracts, as hereinafter defined, and fees and charges of the escrow holder or holders, as hereinafter mentioned, (iv) the redemption premium payable on the Refunded Bonds, and (v) the premium or premiums for a policy or policies of municipal bond insurance or cost or costs of other credit enhancement facility or facilities, for the refunding bonds herein authorized, or any portion thereof, there are hereby authorized to be issued not exceeding \$3,500,000 refunding serial bonds of the Town pursuant to the provisions of Section 90.00 or Section 90.10 of the Local Finance Law (the “Town Refunding Bonds” or the “Refunding Bonds”), it being anticipated that the amount of Refunding Bonds actually to be issued will be approximately \$3,325,000, as provided in Section 4 hereof. The Town Refunding Bonds shall each be designated substantially “PUBLIC IMPROVEMENT REFUNDING (SERIAL) BOND” together with such series designation and year as is appropriate on the date of sale thereof, shall be of the denomination of \$5,000 or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity, shall be numbered with the prefix R-15 (or R with the last two digits of the year in which the Refunding Bonds are issued as appropriate) followed by a dash and then from 1 upward, shall be dated on such dates, and shall mature annually on such dates in such years, bearing interest semi-annually on such dates, at the rate or rates of interest per annum, as may be necessary to sell the same, all as shall be determined by the Supervisor pursuant to Section 4 hereof. It is hereby further determined that (a) such Refunding Bonds may be issued in series, (b) such Refunding Bonds may be sold at a discount in the manner authorized by paragraph e of Section 57.00 of the Local Finance Law and pursuant to subdivision 2 of paragraph f of Section 90.10 of the Local Finance Law, and (c) such Refunding Bonds may be issued as a single consolidated issue. It is hereby further determined that such Refunding Bonds may be issued to refund all, or any portion of, the Refunded Bonds, subject to the limitation hereinafter described in Section 10 hereof relating to approval by the State Comptroller.

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Section 2. The Refunding Bonds may be subject to redemption prior to maturity upon such terms as the Supervisor shall prescribe, which terms shall be in compliance with the requirements of Section 53.00 (b) of the Local Finance Law. If less than all of the Refunding Bonds of any maturity are to be redeemed, the particular refunding bonds of such maturity to be redeemed shall be selected by the Town by lot in any customary manner of selection as determined by the Supervisor.

The Refunding Bonds shall be issued in registered form and shall not be registerable to bearer or convertible into bearer coupon form. In the event said Refunding Bonds are issued in non-certificated form, such bonds, when issued, shall be initially issued in registered form in denominations such that one bond shall be issued for each maturity of bonds and shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”), which will act as securities depository for the bonds in accordance with the Book-Entry-Only system of DTC. In the event that either DTC shall discontinue the Book-Entry-Only system or the Town shall terminate its participation in such Book-Entry-Only system, such bonds shall thereafter be issued in certificated form of the denomination of \$5,000 each or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity. In the case of non-certificated Refunding Bonds, principal of and interest on the bonds shall be payable by check or draft mailed by the Fiscal Agent (as hereinafter defined) to The Depository Trust Company, New York, New York, or to its nominee, Cede & Co., while the bonds are registered in the name of Cede & Co. in accordance with such Book-Entry-Only System. Principal shall only be payable upon surrender of the bonds at the principal corporate trust office of such Fiscal Agent (or at the office of the Town clerk as Fiscal Agent as hereinafter provided).

In the event said Refunding Bonds are issued in certificated form, principal of and interest on the Refunding Bonds shall be payable by check or draft mailed by the Fiscal Agent (as hereinafter defined) to the registered owners of the Refunding Bonds as shown on the registration books of the Town maintained by the Fiscal Agent (as hereinafter defined), as of the close of business on the fifteenth day of the calendar month or last business day of the calendar month preceding each interest payment date as appropriate and as provided in a certificate of the Supervisor providing for the details of the Refunding Bonds. Principal shall only be payable upon surrender of bonds at the principal corporate trust office of a bank or trust company or banks or trust companies located or authorized to do business in the State of New York, as shall hereafter be designated by the Supervisor as fiscal agent of the Town for the Refunding Bonds (collectively the “Fiscal Agent”).

Refunding Bonds in certificated form may be transferred or exchanged at any time prior to maturity at the principal corporate trust office of the Fiscal Agent for bonds of the same maturity of any authorized denomination or denominations in the same aggregate principal amount.

Principal and interest on the Refunding Bonds will be payable in lawful money of the United States of America.

The Supervisor, as chief fiscal officer of the Town, is hereby authorized and directed to enter into an agreement or agreements containing such terms and conditions as he or she shall deem proper with the Fiscal Agent, for the purpose of having such bank or trust company or banks or trust companies act, in connection with the Refunding Bonds, as the Fiscal Agent for said Town, to perform the services described in Section 70.00 of the Local Finance Law, and to execute such agreement or agreements on behalf of the Town, regardless of whether the Refunding Bonds are initially issued in certificated or non-certificated form; provided, however, that the Supervisor is also hereby authorized to name the Town Clerk as the Fiscal Agent in connection with the Refunding Bonds.

The Supervisor is hereby further delegated all powers of this Town Board with respect to agreements for credit enhancement, derived from and pursuant to Section 168.00 of the Local Finance Law, for said Refunding Bonds, including, but not limited to the determination of the provider of such credit enhancement facility or facilities and the terms and contents of any agreement or agreements related thereto.

The Refunding Bonds shall be executed in the name of the Town by the manual or facsimile signature of the Supervisor, and a facsimile of its corporate seal shall be imprinted thereon. In the event of facsimile signature, the Refunding Bonds shall be authenticated by the manual signature of an authorized officer or employee of the Fiscal Agent. The Refunding Bonds shall contain the recital required by subdivision 4 of paragraph g of Section 90.00 of the Local Finance Law or subdivision 4 of paragraph j of Section 90.10 of the Local Finance Law, as applicable, and the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine. It is hereby determined that it is to the financial advantage of the Town not to impose and collect from registered owners of the Refunding Bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the Fiscal Agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the Fiscal Agent.

Section 3. It is hereby determined that:

(a) the maximum amount of the Refunding Bonds authorized to be issued pursuant to this resolution does not exceed the limitation imposed by subdivision 1 of paragraph b of Section 90.10 of the Local Finance Law;

(b) the maximum period of probable usefulness permitted by law at the time of the issuance of the Refunded Bonds, for the class of objects or purposes financed by the Refunded Bonds, pursuant to paragraph a of Section 11.00 of the Local Finance Law, is 30 years pursuant to subdivision 21(a) thereof calculated from May 1, 2006;

(c) the last installment of the Refunding Bonds will mature not later than the expiration of the period of probable usefulness of the class of objects or purposes for which said Refunded Bonds were issued in accordance with the provisions of subdivision 1 of paragraph a of Section 90.00 of the Local Finance Law and subdivision 1 of paragraph c of Section 90.10 of the Local Finance Law, as applicable;

(d) the estimated present value of the total debt service savings anticipated as a result of the issuance of the Refunding Bonds, if any, computed in accordance with the provisions of subdivision 2 of paragraph b of Section 90.10 of the Local Finance Law, is as shown in the Refunding Financial Plan described in Section 4 hereof.

Section 4. The financial plan for the aggregate of the refundings authorized by this resolution (collectively, the “Refunding Financial Plan”), showing the sources and amounts of all moneys required to accomplish such refundings, the estimated present value of the total debt service savings and the basis for the computation of the aforesaid estimated present value of total debt service savings, are set forth in Exhibit A attached hereto and hereby made a part hereof. The Refunding Financial Plan has been prepared based upon the assumption that the Refunding Bonds will be issued in one series to refund all of the Refunded Bonds in the principal amount of \$3,325,000, and that the Refunding Bonds will mature, be of such terms, and bear interest as set forth in said Exhibit A. This Town Board recognizes that the Refunding Bonds may be issued in one or more series, and for all of the Refunded Bonds, or portions thereof, that the amount of the Refunding Bonds, maturities, terms, and interest rate or rates borne by the Refunding Bonds to be issued by the Town will most probably be different from such assumptions and that the Refunding Financial Plan will also most probably be different from that attached hereto as Exhibit A. The Supervisor is hereby authorized and directed to determine which of the Refunded Bonds will be refunded and at what time, the amount of the Refunding Bonds to be issued, the date or dates of such bonds and the date or dates of issue, maturities and terms thereof, the provisions relating to the redemption of Refunding Bonds prior to maturity, whether the Refunding Bonds will be insured by a policy or policies of municipal bond insurance or otherwise enhanced by a credit enhancement facility or facilities, whether the Refunding Bonds shall be sold at a discount in the manner authorized by paragraph e of Section 57.00

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of the Local Finance Law, and the rate or rates of interest to be borne thereby, whether the Refunding Bonds shall be issued having substantially level or declining annual debt service and all matters related thereto, and to prepare, or cause to be provided, a final Refunding Financial Plan for the Refunding Bonds and all powers in connection therewith are hereby delegated to the Supervisor; provided, that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of Section 90.00 or Section 90.10 of the Local Finance Law as applicable. The Supervisor shall file a copy of his certificate determining the details of the Refunding Bonds and the final Refunding Financial Plan with the Town Clerk not later than ten (10) days after the delivery of the Refunding Bonds, as herein provided.

Section 5. The Supervisor is hereby authorized and directed to enter into an escrow contract or contracts (collectively the “Escrow Contract”) with a bank or trust company, or with banks or trust companies, located and authorized to do business in this State as said President shall designate (collectively the “Escrow Holder”) for the purpose of having the Escrow Holder act, in connection with the Refunding Bonds, as the escrow holder to perform the services described in Section 90.10 of the Local Finance Law.

Section 6. The faith and credit of said Town of Somers, Westchester County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on the Refunding Bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. To the extent not paid from other sources, there shall be annually levied on all the taxable real property in said Town a tax sufficient to pay the principal of and interest on such Refunding Bonds as the same become due and payable.

Section 7. All of the proceeds from the sale of the Refunding Bonds, including the premium, if any, but excluding accrued interest thereon, shall immediately upon receipt thereof be placed in escrow with the Escrow Holder for the Refunded Bonds. Accrued interest on the Refunding Bonds shall be paid to the Town to be expended to pay interest on the Refunding Bonds. Such proceeds as are deposited in the escrow deposit fund to be created and established pursuant to the Escrow Contract, whether in the form of cash or investments, or both, inclusive of any interest earned from the investment thereof, shall be irrevocably committed and pledged to the payment of the principal of and interest on the Refunded Bonds in accordance with Section 90.10 of the Local Finance Law, and the holders, from time to time, of the Refunded Bonds shall have a lien upon such moneys held by the Escrow Holder. Such pledge and lien shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder for the Refunded Bonds in the escrow deposit fund shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Town irrespective of whether such parties have notice thereof.

Section 8. Notwithstanding any other provision of this resolution, so long as any of the Refunding Bonds shall be outstanding, the Town shall not use, or permit the use of, any proceeds from the sale of the Refunding Bonds in any manner which would cause the Refunding Bonds to be an “arbitrage bond” as defined in Section 148 of the Internal Revenue Code of 1986, as amended, and, to the extent applicable, the Regulations promulgated by the United States Treasury Department thereunder.

Section 9. In accordance with the provisions of Section 53.00 and of paragraph h of Section 90.10 of the Local Finance Law, in the event such bonds are refunded, the Town hereby elects to call in and redeem each of the Refunded Bonds which the Supervisor shall determine to be refunded in accordance with the provisions of Section 4 hereof and with regard to which the right of early redemption exists. The sum to be paid therefor on such redemption date shall be the par value thereof, and the accrued interest to such redemption date. The Escrow Agent for the Refunding Bonds is hereby authorized and directed to cause notice of such call for redemption to be given in the name of the Town in the manner and within the times provided in the Refunded Bond Certificate. Such notice of redemption shall be in substantially the form attached to the Escrow Contract. Upon the issuance of the Refunding Bonds, the election to call in and redeem the callable Refunded

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Bonds and the direction to the Escrow Agent to cause notice thereof to be given as provided in this paragraph shall become irrevocable, provided that this paragraph may be amended from time to time as may be necessary in order to comply with the publication requirements of paragraph a of Section 53.00 of the Local Finance Law, or any successor law thereto.

Section 10. The Refunding Bonds shall be sold at public competitive sale or at private sale to an underwriter as shall be determined by the Supervisor for purchase prices to be determined by the Supervisor, plus accrued interest from the date or dates of the Refunding Bonds to the date or dates of the delivery of and payment for the Refunding Bonds. Subject to the approval of the terms and conditions of such private sale by the State Comptroller as may be required by subdivision 2 of paragraph f of Section 90.10 of the Local Finance Law, the Supervisor, is hereby authorized to execute and deliver a purchase contract for the Refunding Bonds in the name and on behalf of the Town providing the terms and conditions for the sale and delivery of the Refunding Bonds to a purchasing underwriter if sold at private sale. After the Refunding Bonds have been duly executed, they shall be delivered by the Supervisor to the purchaser or to the Underwriter in accordance with said purchase contract upon the receipt by the Town of said the purchase price, including accrued interest.

Section 11. The Supervisor and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby.

Section 12. All other matters pertaining to the terms and issuance of the Refunding Bonds shall be determined by the Supervisor and all powers in connection thereof are hereby delegated to the Supervisor. The Supervisor shall be further authorized to issue said Refunding Bonds pursuant to Section 90.00 or Section 90.10 of the Local Finance Law as said officer shall determine necessary.

Section 13. The validity of the Refunding Bonds may be contested only if:

1. Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
2. The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
3. Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. A summary of this resolution, which takes effect immediately, shall be published in the official newspapers of said Town, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The foregoing resolution was duly put to a vote which resulted as follows:

ROLL CALL:	Supervisor Rick Morrissey	VOTING	AYE
	Councilman Richard G. Clinchy	VOTING	AYE
	Councilman Thomas A. Garrity, Jr.	VOTING	AYE
	Councilman Anthony J. Ciriaco	VOTING	ABSENT
	Councilman William G. Faulkner	VOTING	AYE

Schedule
public
hearing for
Conservation
Easement

The next item on the agenda was to schedule a public hearing with regard to a Conservation Easement for Deans Bridge Associates, LLC. Mr. Tim Allen, Bibbo Associates, Engineer for the Applicant explained that the property was subdivided in 2009 – 2010. He said that it was 10 acres and they divided it into 3 lots with 4 ½ acres was a Conservation Easements. He said that the plat was filed but somewhere in the process the Conservation Easement

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was not filed as well as the Driveway Easement. Mr. Allen pointed out where the Conservation Easement was on a map of the property.

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

RESOLVED, that the Town Board does hereby schedule a Public Hearing on June 11, 2015 for the Conservation Easement for Deans Bridge Associates, LLC

The Supervisor said that it was in order for the Board to adjourn the meeting to an executive session to have a discussion with the Town Attorney with regard to personnel matter.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Garrity, the meeting was adjourned to an executive session at 7:55 PM with regard to a discussion with the Town Attorney with regard to a personnel matter, to return that evening.

8:00 PM – meeting reconvened

PERSONNEL:

Current Vacancies:

- Somers Energy Environmental Committee
- Affordable Housing Board (5 – 2 year terms ending July 11, 2015)
- Assessment Board of Review (1 – unexpired 5 year term ending September 30, 2017)
- Library Board of Trustees (1 – 5 year terms ending December 31, 2014)
- Zoning Board of Appeals (1 – 7 year term ending December 31, 2017)

Upcoming Vacancies:

Town
Employee
misconduct

The Supervisor said that it was in order for the Board to adopt a Resolution to allow the Supervisor to take appropriate action regarding an employee's misconduct while in the employment of the Town.

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to take appropriate action regarding an employee's misconduct while in the employment of the Town.

Appoint K.
O'Keefe to
the
Assessment
Board of
Review

The Supervisor said that it was in order to appoint Ms. Kate O'Keefe to the Assessment Board of Review.

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

RESOLVED, that the Town Board does hereby appoint Kate M. O'Keefe to the Assessment Board of Review to the unexpired term of Michael Pacella ending September 30, 2017.

A. Farber
Somers
Library
Director
II.

The Supervisor said that it was in order to announce the hiring of Mr. Andrew Farber as Somers Library Director II.

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

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RESOLVED, that the Town Board does hereby announce the hiring of Andrew Farber as Somers Library Director II, effective June 1, 2015 at an annual salary of \$85,000.00.

Consensus agenda

The Supervisor said that the next item was the consensus agenda. He said that there was additional language to be added to item number 11. He said that the Resolution should include Nutrition and Town House as well. The Supervisor said that item number 3 needed to be removed from the consensus agenda because it required a Roll Call Vote.

Decline donation of 0 Juniper Drive

The Supervisor said that it was in order for the Board to decline the donation of property located at 0 Juniper Drive, known as Parcel Id 5.15-3-4.

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

RESOLVED, that the Town Board does hereby decline donation of property located at 0 Juniper Drive in Lincolndale, known as Tax Map ID 5.15-3-4.

VOTE:

AYES: 4 Faulkner, Clinchy, Morrissey, Garrity
NOES 0
ABSENT: 1 Ciriaco

The Supervisor said returning to the consensus agenda, with regard to item number 16, he wanted to Thank Ms. Marguerite S. Davis for her years of service in the Planning and Engineering Department. He said that she will be missed by all. Councilman Clinchy said with regard to item number 12d, he wanted to thank Mr. Detz for adopting the road and helping the Town.

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

Award bid for Sumer Camp Trip Transportation

1a. RESOLVED, that the Town Board does hereby award bid for Summer Camp trip transportation to Baumann & Sons Buses, Inc. in the amount of \$8,195.00 per memo dated April 29, 2015 from Steven Ralston, Superintendent of Parks & Recreation. Bids received were as follows:

Baumann & Sons Buses, Inc.	\$8,195.00
Royal Coach Lines, Inc.	\$8,405.00

Hire T. Silva Summer Maintenance Worker

1b RESOLVED, that the Town Board does hereby authorize the hiring of Tyler Silva Summer Maintenance Worker at an hourly rate of \$11.00 per memo dated April 29, 2015 from Steven Ralston, Superintendent of Parks & Recreation.

Request to West County for HIF for the water line ext. for Hidden Meadows

2. **RESOLUTION OF THE TOWN OF SOMERS TOWN BOARD AUTHORIZING THE SUPERVISOR TO SUBMIT AN APPLICATION AND ENTER INTO AN INTERMUNICIPAL/DEVELOPER AGREEMENT FOR A HOUSING IMPLEMENTATION FUND GRANT FROM WESTCHESTER COUNTY IN SUPPORT OF THE FAIR AFFORDABLE HOUSING DEVELOPMENT TO BE LOCATED AT 16 ROUTE 6 (Hidden Meadows at Somers).**

WHEREAS, Westchester County (the "County") has established a Housing Implementation Fund to provide infrastructure and other improvements to encourage and support the development or preservation of affordable housing; and

WHEREAS, The Kearney Realty and Development Group Inc., or its successor (the "Developer") proposes to construct an affordable affirmatively furthering fair housing rental development and related amenities at Hidden Meadows at Somers, 16 Route 6 (the "Development") in the Town of Somers (the "Town"); and

WHEREAS, in order to make the proposed development viable, infrastructure must be constructed, including, but not limited to: the extension of a water main, road widening, wastewater pumping station, stormwater management, and other related work, the ("Infrastructure Improvements"), as more fully set forth in a schedule of work; and

WHEREAS, the completion of the Development requires the assistance from the Westchester County Housing Implementation Fund, ("HIF") to subsidize the cost of the Infrastructure Improvements in order to assure affordability of the Development and to improve the sewer infrastructure related to the site of the Development and nearby properties; and

WHEREAS, the Town desires the HIF assistance from the County for the Development and will enter into an Intermunicipal/Developer Agreement (IMDA) with the County and the Developer; and

WHEREAS, pursuant to the IMDA, the construction of the Infrastructure Improvements shall be performed through a competitive public bid by the Town pursuant to Section 103 of the General Municipal Law; and

WHEREAS, pursuant to the IMDA, the County shall, if needed, be granted temporary easements for the area(s) upon which the Infrastructure Improvements shall be constructed and

WHEREAS, prior to the commencement of construction of the Development, the County will record a Declaration of Restrictive Covenants which will require that the units to be constructed in the Development will be affordable to households with incomes at or below 50% and 60% of the County Area Median Income a period not less than years; and

WHEREAS, it is recognized that Chapter 298 of the Westchester County Code requires that 40% of the units benefit from HIF funded infrastructure improvements must be affordable units as defined the County unless an exception is specifically requested by the municipality; and

WHEREAS, the Town of Somers requests the County's consideration of funds for Infrastructure Improvements recognizing that approximately 30% of the units in the development will be affordable units, all of which will benefit from these improvements; and

WHEREAS, it is understood that the Town will be responsible for the maintenance of the Infrastructure Improvements.

NOW THEREFORE BE IT RESOLVED, that the Supervisor is hereby authorized to submit an application to Westchester County for a Housing Implementation Fund grant for the Development in an amount not to exceed \$1.6M; and

BE IT FURTHER RESOLVED, that the Supervisor is authorized to enter into an IMDA with Westchester County and the Developer and take all

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necessary steps to facilitate and implement the terms of the IMDA and the scope of work appended to such agreement.

3. REMOVED to Regular Meeting for Roll Call Vote.

West
County
Joint Gov.
Efficiency
Plan

4. RESOLVED, that the Town Board does hereby authorize the Supervisor and Director of Finance to execute three (3) certifications in relation to the Westchester County Joint Government Efficiency Plan per email from Robert Kehoe dated May 1, 2015.

Resignation
of M.
Pacella
from ABR

5. RESOLVED, that the Town Board does hereby acknowledge the resignation of Michael Pacella from the Assessment Board of Review effective April 27, 2015.

Hire J.
Mintzes Part-
time Senior
Account Clerk

6a. RESOLVED, that the Town Board does hereby authorize the hiring of Joye Mintzes as Part-time Senior Account Clerk at an hourly rate of \$24.43 in the Finance Office effective April 27, 2015, per memo dated May 7, 2015 from Barbara J. Sherry, Confidential Secretary to the Supervisor.

Hire J. Yanza,
Full Time
Road
Maintainer

6b. RESOLVED, that the Town Board does hereby authorize the hiring of Jose Yanza, Full Time as a Road Maintainer at an annual salary of \$49,439.00 (to be paid 90% for the first 6 months according to the Teamster CBA) effective April 27, 2015 per memo dated April 27, 2015 from Thomas E. Chiaverini, Superintendent of Highways.

Hire M.
Cleary part-
time summer
employee

6c. RESOLVED, that the Town Board does hereby authorize the hiring of Michael J. Cleary VI as part-time summer employee at an hourly rate of \$14.00 effective on or about June 1, 2015 for the Amawalk-Shenorock Water District (ASWD), per memo dated April 27, 2015 from Adam Smith, Superintendent of Water & Sewer.

Additional
hours for S.
Dym

7. RESOLVED, that the Town Board does hereby authorize additional hours to Syrette Dym, Town Planner from 29 hours per week to 35 hours per week at an annual salary of \$97,125.00 for a one year period beginning May 11, 2015 and ending on May 10, 2016 and,

DOES HEREBY, authorize the Supervisor to execute contract for same.

Authorize
Refunds

8. RESOLVED, that the Town Board does hereby authorize the refund of the following items per memos from Syrette Dym, Town Planner, Steven Woelfle, Principal Engineering Technician and Wendy Getting, Senior Office Assistant:

- a. \$ 965.00 – Maurice & Jill Franzese – Wetland Permit – SEQRA
Professional Fee 17.12-2.36
- b. \$ 500.00 – Wooded Acres Dev. Corp. (Boniello Land & Realty LTD.) - Stormwater Mgmt. & Erosion & Sediment Control –
48.17-1-35.
- c. \$ 970.00 – Plumbrook Manor Subd. (Suozzi) – SEQRA
Professional Fee – 16.11-1-15.
- d. \$ 500.00 – Carminucci Wealth Mgmt. Site Plan – SEQRA
Professional Fee – 17.11-2-3.
- e. \$6,498.45 – MetroPCS New York LLC at Lincoln Hall – SEQRA
Professional Fee – 16.15-1-1.
- f. \$ 200.00 – Acocella – Erosion & Sediment Control Permit –
27.20-1-23.
- g. \$1,000.00 – Somers Chase & Toll Bros. – Bond for incomplete
items for the issuance of a Certificate of Occupancy – 28.05-1-29.

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- h. \$ 200.00 – DiLuna Stormwater Management & Erosion & Sediment Control Permit – 28.17-1-1.
- i. \$ 885.00 – Olde Farm Estates Subdivision (DeVito & Son. Inc.) Resolution #96-18.

Transfer
SEQRA Prof.
Fees to
General Fund

9. RESOLVED, that the Town Board does hereby authorize the transfer of \$1,196.00 from SEQRA Professional Fee to the General Fund for the Chase Manhattan Bank Site Plan (The Phillips Group) – 17.11-1-21, per memo dated April 24, 2015 from Syrette Dym, Director of Planning.

Return Snow
Maintenance
Bond

10. RESOLVED, that the Town Board does hereby authorize the return of \$4,400.00 Snow Maintenance Bond to Bonie Wood Realty CO. (Highview Subd. Sect. III) per memo dated April 20, 2015 from Steven Woelfle, Principal Engineering Technician.

Bid for
Sale of
old
Equipt.

11. RESOLVED, that the Town Board does hereby authorize going to bid for the sale of old non-functioning computer equipment at the Somers Library, a Konica 2223 Copy Machine approximately 20 years old located at the Nutrition Department at Van Tassell Memorial Park and a Panasonic VHS Movie Camera AG-190 approximately 20 years old, located in the Town House.

Agreement
with Garden
State
Fireworks

- 12a. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute an agreement with Garden State Fireworks, Inc. in the amount of \$10,000.00.

Execute the
2015/2016
Municipal Snow
& Ice Agreement
Extensions

- 12b. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the 2015/2016 Municipal Snow & Ice Agreement Extensions with NYDOT per letter dated April 1, 2015 from Jorge A. Argote, P.E., Resident Engineer, Westchester North.

Execute
the WIN

- 12c. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the WIN in the amount of \$74,915.00 & NSIP in the amount of \$49,842.00 Third Amendment: Nutrition Services PY 2015-2016 per memo dated April 22, 2015 from Barbara Taberer, Program Director.

Execute an
Adopt-A-
Road
Agreement

- 12d. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute an Adopt-A-Road Agreement with Richard Detz for Forest Lane and Eastview Place to Lakeview Drive in Shenorock.

Authorize
additional funding
Somers Crossing
SEQRA Review

13. RESOLVED, that the Town Board does hereby authorize additional funding not to exceed \$2,100.00 for the Somers Crossing SEQRA Review for Tim Miller Associates per letter dated April 21, 2015 from Frederick Wells, RLA, Senior Vice President, TIM MILLER ASSOCIATES, INC.

Execute Annual
Maintenance
Agreement with
Gentech LTD

14. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Annual Maintenance Agreement in the amount of \$595.00 from Gentech LTD. for the Town House Generator per email from Barbara Sherry dated May 1, 2015.

Refund
SEQRA
Prof. Fees

15. RESOLVED, that the Town Board does hereby authorize a refund of \$1,000.00 SEQRA Professional Service Fee to Boniello Land & Realty LTD. for the Farm (Country Hollow Lot Line Change,) per memo dated May 11, 2015 from Syrette Dym, Director of Planning.

Resignation
of M. Davis
Intermediate
Clerk

16. RESOLVED, that the Town Board does hereby acknowledge with regret the resignation of Marguerite S. Davis, Intermediate Clerk in the Planning & Engineering Office effective May 29, 2015.

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The Supervisor said that James Reynold's Day was going to be held on May 17th at 1:30 PM at Mt. Zion Church. He said that this was dedicating his headstone and there will be a Ceremony attended by the Daughters of the American Revolution.

The Supervisor said that Relay for Life was going to be held on Friday May 29th from 7:00 PM to 7:00 AM between the Somers Intermediate School and the Somers Middle School.

The Supervisor said that the Lynn Adams Memorial 5k Run and the 1 Mile Fun Walk was going to be held on Saturday June 6th. He said that there was a pre-registration link with information available on the Town website.

The Supervisor said that on May 21st at 8:00 AM at the Middle School was having a Living History Event. He encouraged all that were able to attend the event.

The Supervisor said that they were looking for volunteers to assist with the flag placement on Veteran's gravesites on Saturday, May 17th at 10:00 AM for Memorial Day. He said that the major Cemeteries in Town had been taken care of, this was for the small Cemeteries throughout the Town.

The Supervisor said that the Memorial Day Parade was going to be held on Monday, May 25th, lineup was at the Somers Middle School at 9:30 AM and the Parade began at 10:00 AM. The Parade Route was from the Somers Middle School to Ivandell Cemetery where there will be a Ceremony and refreshments will be served at the Town House after the Parade.

Councilman Faulkner stated God Bless all of the Veterans. He said that also on May 15th at Somers High School there would be the Harlem Wizards Fundraiser.

The Supervisor said that the regular meeting on June 11th was going to begin at 7:30PM.

Claims for the payment of all Town Bills in the amount of \$699,005.95 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 Councilman Faulkner, seconded by Councilman Garrity, the meeting was adjourned at 8:10 PM.

Town Clerk