

AUGUST 11, 2011 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening August 11, 2011 at 7:35 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Mary Beth Murphy
	Councilman	Harold R. Bolton
	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 amendment to Chapter 90 entitled Entertainment, Places Of.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Journal News on August 2, 2011 and posted on the Town Clerk's bulletin board the same day.

The Supervisor said that the purpose of this amendment was to add a provision to the Entertainment Law that addressed noise levels.

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

Mr. Frank Guagenti, member of Blue Mozart Band, said that there was a distinguished guest in the audience that evening, who was a former member of Dion and the Belmonts. He said that they both played at the Club and there were very few musical entertainment venues in the Town. He said that under the proposal there could be no weddings, music at restaurants and definably no music anywhere in the area. He said that there was very little entertainment in the area as it was. Mr. Guagenti said without a quantitative approach, meaning decibel meters, any bar, club or restaurant could be closed on pure hearsay. He said that in Mahopac there was a decibel limit used to measure the noise level. Councilman Morrissey asked Mr. Guagenti if the Mahopac's ordinance was what should be used. Mr. Guagenti said that their ordinance was very fair. Councilman Clinchy asked if Mr. Guagenti knew what the decibel level was. Mr. Guagenti said that he believed the level was 30 to 50 decibels 50 feet from the door of the club. He said that this could kill all live music in the area. He continued that this proposed legislation was going to affect all clubs, restaurants, bars, catering halls and even people who wanted to have parties in their yards. The Supervisor said that it was actually part of the Entertainment License and it applied to people who were having entertainment. Councilman Clinchy asked Mr. Guagenti if he understood that the issue was that the location was in a residential area and the legislation had to be written for everyone and that was the delicate balance in writing the law. Mr. Guagenti said that the establishment had been there for many years and he would think that it was grandfathered. Councilman Bolton said that for many years that bar did not have live music. He said in all fairness there were people who lived there that had children and when their dishes are bouncing off of their walls and their children waking up it was not fair. The Supervisor said that their intention was not to kill music in the area, their intention was to keep a residential neighborhood residential for the people who were living there. She said that the State Liquor Law said that same thing as they were proposing; this was not something that was not otherwise required. She said that their goal was not to close down any establishment; it was to create an environment where everyone can live comfortable.

Mr. Robert Jaffe, 17 Miller Avenue, read a statement that he prepared with regard to his opposition to the proposed amendment.

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Mr. Joseph Mazzella, owner of Somers 202 Restaurant, said that he did not disagree with the amendment if there was an issue. He asked if it had to be so drastic right away and if it could be monitored and a fine could be issued if need be. Councilman Bolton said that this issue had been going on since January and they had received complaints. Councilman Clinchy said that if the establishment was not loud then no one would be in the position to suffer. He said that the question that was before the Board was it was in a residential area and a number of people stated that the establishment was affecting their quality of life. He said that caused the Board to look at what sort of laws and ordinances they had that would apply to this situation. Mr. Mazzella said that he did not understand why they were doing this right away without monitoring the issues. The Supervisor said that there had been some monitoring, although if the Board desired to put the hearing over for a couple of months to see if things improved that they could do that. She said that she had not received any complaints since the hearing had been scheduled and that was a good thing. Mr. Mazzella asked after the Board passed to change did it take effect immediately. The Supervisor explained that it was an amendment to a Local Law and all it said was that it was unlawful to make music to disturb the peace, tranquility and good order of the people of the Town of Somers. She said that it provided a vehicle for enforcement. Mr. Mazzella said that even those who had never had a complaint against them fell into the group. Councilman Garrity said that if they had not had a complaint in the past then odds were that nothing was going to change. The Supervisor said that there was a comment about having live music in the Town was a good thing. She agreed with that comment and said that it was good and that was not what they were trying to stop. She said that they were trying to respect the residential neighborhood that was adjacent to the establishment. The Supervisor said that it was not different than what was in the State Liquor Law presently and she read that law to the audience.

Mr. Jay Petrillo, P.J.'s Restaurant, said that he has had live entertainment at his establishment for 20 years and he did not think that they had ever had a complaint. He said that he tried to be a good neighbor and sometimes that was not easy. He said that his question was why they were adding legislation if there was already something to address the situation. The Supervisor said that there was a Noise Ordinance that did not directly relate to entertainment. Mr. Petrillo said that something like this could be skewed without a decibel meter to say when is too loud, too loud. He said that if they were not going to use a decibel meter then they should have a warning system in place before fines were imposed. Councilman Bolton said that he had asked the question of whether they should set a level for the noise and the Town Attorney explained that if they did that they would have to go and test it and buy equipment and train people to do the testing. He said that what they were really looking for was to have the Bar be a good neighbor and co-exist, and that was not happening. He said that it was very important to him that the law was passed. Councilman Morrissey said that the Town Board's intention was to react to an expectation of a homeowner that brought a complaint to the Town Board. He said that he would be in favor of holding off on the adoption of the Local Law. He said that the establishment did receive notices of violation and will be coming in to the Court System and if that took care of the issue then this may not be necessary. Councilman Morrissey said that they were all for promoting businesses and having music venues in Somers. He suggested continuing the hearing and not voting on the amendment.

Mr. Bruce Zarzeski, said that he was there to speak out against the proposed Local amendment. He said that he was not entirely sure what prompted change to the Code. He said that all he was told was that a place that he frequently visited the Roadhouse Tavern on Route 118 had recently been sited for disturbing the peace. Mr. Zarzeski said that the premises of the Roadhouse Tavern had been used for that purpose for nearly 150 years. He said that the official use was considered pre-existing, non-conforming. Mr. Zarzeski said that Mr. Jacobsen had cleared up the place and had done some upgrading and remodeling to make the location viable, appealing, clean and safe for adults to go and for that he should be commended. He explained his experience and the benefits of the Roadhouse Tavern to the Board. He urged the Board not to move forward with the proposed amendment.

The Supervisor asked what the pleasure of the Board was with regard to the amendment, did they want to put the matter over for a couple of months. Councilman Bolton said that he felt that the amendment should go through. He said that just by putting this forward

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the problem had gone away. Councilman Garrity said that it had been going on for seven months and if there was no noise now then the new ordinance should not affect them. He said that he agreed to move forward with this at that time. Councilman Morrissey said that the issue that was brought to them and the Roadhouse was issued a violation. He continued that the Roadhouse had addressed the concerns and he would suggest that they continue the public hearing. He said that the problem had been addressed. Councilman Clinchy asked the Town Attorney if the Town had a Noise Ordinance why this needed to be added. The Town Attorney explained that they needed some legislation that was going to apply equally to Places of Entertainment that the Town otherwise licenses. Councilman Morrissey said that he did not feel that it was different than what was already in the Town Code. The Town Attorney said that the new legislation made the ordinance narrower in its application and easier to enforce. He said that the proposed language he had lifted out of another Town's Code was very effective for them.

There being no one else to be heard on motion of Councilman Garrity, seconded by Councilman Clinchy, the public hearing was declared closed at 8:20 PM.

Councilman Morrissey was opposed to closing the hearing.

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Town Clerk

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Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening August 11, 2011 at 8:20 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Mary Beth Murphy
	Councilman	Harold R. Bolton
	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 public hearing with regard to a proposed amendment to Chapter 158-10 entitled Vehicles and Traffic No Parking.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Journal News on August 2, 2011 and posted on the Town Clerk's bulletin board the same day.

The Supervisor said that this Local Law proposes to add a number of No Parking in the Fire Lanes at the four Public School Campuses in the Town of Somers. She explained that this was the result of a lot of conversation between the Fire Prevention Bureau, the Volunteer Fire Department and the School Administration.

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

The Supervisor said that there were some of the members of the Volunteer Fire Department in the audience. She thanked them for being there that evening and she thanked them for all that they did for the Town. She said that she had the experience of seeing them in action a couple of weeks before when there was a car fire on her street. The Supervisor said that they did a fantastic job putting the fire out and minimizing the impact in the area.

Councilman Bolton asked Chief Wahlers if he would like to speak about the positive aspects of the proposed law.

Chief Wahlers of the Somers Volunteer Fire Department, said that this was something that had been on going in Town for approximately the last ten years. He said that the Volunteer Fire Department's motto was to be prepared for the worse and hope for the best. He continued that as he drove around he saw cars parked everywhere on the School grounds and if there was any type of emergency there would have been no way for them to get their equipment to the Schools. Chief Wahlers said that they took this seriously because they wanted to be able to get into the School grounds and take care of whatever problem might arise. He said that they would like to see the Board pass a law that would allow either the Bureau of Fire Prevention or the Town Police Officers to issue summonses. He said that he was not saying that they wanted to issue summonses without giving warnings to people who were parked in the Fire Lanes. Chief Wahlers said that this would give them something to work with. Councilman Garrity thanked Mr. Wahlers for all of his work getting this to a positive outcome.

Mr. Christopher Benson, Volunteer Fireman, said that he also drove a School Bus for the Somers School District and it was atrocious the way the cars park in front of the Schools. He said that there were signs that state there was No Parking in front of the Schools that people ignore. He shared an experience he had at the School with parents that would not move their vehicles from the Fire Lane during an emergency.

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There being no one else to be heard on motion of Councilman Clinchy, seconded by Councilman Bolton, the public hearing was declared closed at 8:30 PM.

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Town Clerk