

SEPTEMBER 8, 2014 – SPECIAL MEETING

Minutes of a special meeting of the Town Board of the Town of Somers held on Monday evening September 8, 2014 at 7:00 PM at Lake Lodge, 18 Heritage Hills Drive, Somers, New York.

ROLL CALL:

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

ABSENT:

Also present were Patricia Kalba, Deputy Town Clerk.

The meeting was to be held at Van Tassell, 100 Route 139, due to programing conflicts the meeting was relocated from the original location to Lake Lodge, 18 Heritage Hills Drive.

The Supervisor explained that the special meeting that evening was a continuation of the discussion with regard to the Devereux Group Home.

Mr. John Martin, Summit Circle, said that he was concerned with Mr. Rothenstein's comment from the previous meeting when he said that the housing project was going forward regardless of safety issues and that they were going to take care of them if they arose. He said that meant that the Town Board and the people in the community did not have anything to say about this. He said that the law was a bad law, safety should be the number one concern for everyone involved. Mr. Martin said that out of the limited options the Town Board had he hoped that they did not choose the one that approved the project. He suggested that they send a note along to the State Legislator and the various Departments stating that there was something was wrong with the process. He said that he felt that the Community and the Town Board were deliberately kept in the dark throughout this process. Mr. Martin said that it created a lot of bad feelings and if they would have come to the community when the contract of the house was signed they could have reduced a lot of the anxiety and opposition with the homeowners.

Councilman Faulkner said with regard to the process he agreed with Mr. Martin, there was a lot of room for improvement. He said that he thought that the Parent and the Devereux group was going to find a welcome and supporting community for their residents. He asked Mr. O'Keefe to briefly walk them through the process because there had to away for the Town to get a little more time to consider what was being proposed.

Mr. O'Keefe, Devereux Group, explained the order of events that were gone through to select the residents that would be living in the home and the requirements for the house that was purchased. He explained that the New York State Office of People with Developmental Disabilities (OPWDD) was the primary agency for the entire process. He continued to walk the Board though the process of looking for a community that did not have a saturation issue and the steps of purchasing a house.

The Supervisor asked if they ever included the neighborhood or municipalities when selecting a house for purchase. Mr. O'Keefe stated that they did not. The Supervisor asked why they did not include the communities. Mr. O'Keefe explained that in the Hudson Valley area they were required not to contact the municipalities until after the Fair Assessment was completed and the feasibility study had been established. He explained that the Fair Assessment was a process that the State required to determine what was reimbursable for the capital cost of the residence. The Supervisor asked to clarify, Upstate had a different standard of working with municipalities than the Hudson Valley Office of

SEPTEMBER 8, 2014 – SPECIAL MEETING

OPWDD. Mr. O’Keefe said that it was a different practice, the standard was that he should wait for the Fair Market Assessment before the Town was notified.

Councilman Faulkner said regardless of when they notify the municipalities they only had 40 days from that point. Mr. O’Keefe said that was correct and continued that because Westchester was a busy County the Fair Assessment took 9 weeks. He said that he could not do anything during the period and after that was complete they needed to request the Feasibility Study which took a couple of weeks. He said that while they were waiting for the Feasibility Study he was given the okay to notify the Town. Mr. O’Keefe stated that was when he contacted the Town and setup a meeting and the 40 day notice began. The Supervisor said to clarify that it was on July 30, 2014.

Councilman Faulkner said that the process was a thorough one and it sounded like an amazingly rational process except for the part where the Town was left at the tail end of the discussion.

Councilman Clinchy asked what the number of houses of this type did Devereux operate. Mr. O’Keefe answered that they currently operated about twenty residences. Councilman Clinchy asked how long those twenty residences had been operating, were they all fairly recent. Mr. O’Keefe answered that some of the residences had been opened over twenty years ago. Councilman Clinchy asked of the long term houses that they operated how many of them housed the original residents in them. Mr. O’Keefe said that most of the houses had the original residents, on average about 85% to 90% were original.

Councilman Ciriaco asked if any of the funding came from the Schools Special Education Fund. Mr. O’Keefe answered not for Adult Services but for the children that went to the Schools.

Councilman Garrity asked if all four of the residents attended Devereux Schools. Mr. O’Keefe said that was correct.

There being no further comments from the public on motion by Supervisor Morrissey, seconded by Councilman Garrity, public comment was declared closed.

Councilman Garrity said that Mr. Martin was correct, this was a State Law that superseded the Town Board. He said that they may not like the process although, the Town Board did not have anything against the residents that would be living in the home or their families. He said that they were charged with very specific things and safety, although it was important to everyone that was an item for the State to be the judge of. Councilman Garrity said that they had four groups of parents that had seen the location and they were saying it was safe. He said that he would be upset if someone told him how to view his children’s safety and he had to respect their decision on that.

Councilman Garrity said with regard to saturation the Board had heard from the Town Attorney and OPWDD that this project did not meet the over saturation. He said that if they denied the application based on saturation it would go back to OPWDD and that would accomplish nothing.

Councilman Garrity said that all they were left with was not liking the process and they could not vote on something because they did not like the process. He said that they had to follow the Laws that were currently in place. He said that of there were three options that Board had to choose and the one where they did nothing in response to the application was the best option. Councilman Garrity said from the Home Owners’ Associations standpoint the Town Board could not enforce their Bylaws.

Councilman Ciriaco said that he shared in Councilman Garrity’s sentiments, it was not a level playing field. He said that they were all a little uncomfortable with how it was executed although it was done in the context of the Law. He said that they would have

SEPTEMBER 8, 2014 – SPECIAL MEETING

liked to have more time although even with more time he did not think the outcome would have changed. Councilman Cirienco said that there was one other option they could have used and that was to look into other alternative locations and they did as quickly as they could. He said that alternative was not palatable because they would have been pushing this off on another part of Town with no notice. He said that this was a State Regulation with very narrow guidelines.

Councilman Clinchy said that he wanted to echo Councilman Garrity's statement with regard to the safety concerns, if the parents were comfortable with the home and the location he was comfortable. He said that he felt that meetings with Devereux and the Home Owners Association (HOA) was a good thing because the HOA may be able to alert Devereux to things that they may not know about the neighborhood. He said that he was also glad that, in the discussion Devereux had with the HOA, they would be able to contribute to the HOA's dues. Councilman Clinchy said that he understood Mr. Martin's comments that this was snuck in although he did not think that was purposeful. He said that the Law did not give the Town many options although he felt that this was going to work out well for all involved.

Councilman Faulkner said that he did not like the process or how it was followed. He said that for him it was all about the safety of the residents. He said that he wanted to ask Devereux and the Home Owners Association to invite him to their meeting when they felt it was appropriate.

The Supervisor said that Somers was a very welcoming community and was accepting of serving the special needs population. He continued that the four young men coming into the community were going to be welcomed and that they looked forward to them being productive members of the community. He said that being said the Padavan Law was one of those far reaching State Mandates that tied the hands and does a disservice to a Local Municipality. The Supervisor said that the Law ignored their Home Rule and that process out of their venue totally. He said the fact that the Town was given only a 40 day notice prior to any Group Home coming in was a disservice to the Town. He said that he was a bit disappointed in Devereux; that they did not wait until the Summer was over to notice the Town, when everyone was back from vacation. The Supervisor said that he hoped that the discussions with the Home Owners Association (HOA) would continue. He said that the Town Board did investigate referrals from the HOA and they did not see any other residence that fit Devereux's needs. He said upon his review of the options that the Padavan Law provided none was acceptable to the Town. The Supervisor said that they had no other alternative then to do nothing but to let the time limit expire. He said that he was going to close the meeting at that time, he wanted to thank the residents for voicing their opinions and commend their HOA for the research and their due diligence. He said that he hoped that they felt that the Town Board was responsive and he encouraged Devereux to continue the dialog with the HOA and address all issues and concerns.

Thereupon motion by Supervisor Morrissey, seconded by Councilman Garrity, the meeting was adjourned at 7:45 PM.

Deputy Town Clerk