

JANUARY 14, 2010 – REGULAR MEETING

Minutes of a regular meeting of the Town Board of the Town of Somers held on Thursday evening January 14, 2010 at 6:45 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 it was in order for the Board to enter into an executive session with regard to litigation and personnel matters.

Thereupon motion of Supervisor Murphy, seconded by Councilman Clinchy, the meeting was adjourned to an executive session with regard to litigation and personnel matters at 6:45 PM to return that evening.

7:35 PM – meeting reconvened

PUBLIC COMMENT:

Mr. Ned Isaacson, asked if the new Town Board was going to change the Town Ordinance to allow political signs because at the last Election there were signs all over the Town. The Supervisor said that she did not have any intention in changing the Code. She said that they try to enforce the Code although when the signs were removed they were replaced the very next day. Mr. Isaacson said that the Town should find a better way to enforce the Code.

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

The Supervisor announced that she received an email from Senator Leibell with regard to a simple way for everyone to contribute to help with the tragedy in Haiti. She said that they could go online to the American Red Cross website or send a text message from their cell phones. She said that information to make donations would be placed on the Town website as well.

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

Approval
of the
minutes

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

RESOLVED, that the Town Board does hereby approve the minutes of the November 12, 2009 Public Hearing with regard to the Extension of the Amawalk Shenorock Water District to include the Planned Hamlet, the November 12, 2009 Public Hearing with regard to the proposed Stop Signs, the November 12, 2009 Regular Meeting, the November 17, 2009 Public Hearing with regard to the Extension of the Amawalk Shenorock Water District to include the Planned Hamlet, the November 17, 2009 Special Meeting, the November 18, 2009 Special Meeting, the November 19, 2009 Special Meeting, the December 3, 2009 Public Hearing with regard to the 2010 Preliminary Budget the December 3, 2009 Special Meeting/Work Session, the December 10, 2009 Regular Meeting and the January 7, 2010 Organization Meeting.

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

Disc. w/
League of
Women
Voter reg.
Affordable
Housing

The Supervisor said that the next item on the agenda was a discussion with the League of Women Voters with regard to Affordable Housing.

Ms. Harriet Leib, Co-President of the League of Women Voters, thanked to Board for the opportunity to talk with them about Affordable Housing and what it could mean for Somers. She explained to the Board the mission of the League, the range of different functions of Affordable Housing and the eligible median income in Westchester County that a person had to meet to rent or own an affordable home. She said that 6 years ago as part of the purchase agreement of the Eagle River Land the Town assumed an obligation to make a good faith effort to build 224 units of Affordable Housing within the following 10 years. Ms. Leib said currently with the exception of 2 units, Somers did not have Affordable Work Force Housing. She said that the Town was moving toward the approval of 72 units of Senior Affordable Housing in Baldwin Place and that this had been a long term effort that will hopefully be the beginning of Affordable Housing for the community.

Ms. Myra Linker, member of the League of Women Voters, presented to the Board photos and details of different Affordable Housing Developments in and around Westchester County.

Mr. Tony Hoeltzel, Housing Action Counsel, presented the Board with a handout and discussed with them how fair and affordable Housing could be funded and different funding sources.

The Supervisor asked Mr. Hoeltzel what the progress was of the Mews at Baldwin Place. Mr. Hoeltzel said that it was progressing; the Town Board and Planning Board did everything that needed to do on time and that it was in the County's hands at that time with regard to the Sewers. The Supervisor asked about the road that had to be built before the Building Permits could be issued and if that was progressing. Mr. Hoeltzel said that was being worked on.

Councilman Morrissey asked if the Housing Action Counsel outreached to Developers and made presentations to them as well. Mr. Hoeltzel said that they did and Developers also came to them to ask for help.

Councilman Clinchy said that the County has the controversial position from last year in which they have an obligation to meet under the Court settlement. He asked if the County had approached the Housing Action Counsel to identify areas and ask for their help to bring it about. Mr. Hoeltzel said that the County was waiting for the Implementation Plan. The Supervisor said that it was her understanding that there should be something shared by the end of the month. Mr. Hoeltzel said that Rose Noonan was serving as a Consultant to the monitoring.

Councilman Clinchy asked if a Developer was interested in helping with developing Affordable Housing how would they proceed with the different mixtures of funding that were available. Mr. Hoeltzel explained that a for-profit would have to partner with a non-profit corporation or organization and the non-profit would be the entity to submit the applications for funding.

Angle Fly
Road
Names

The next item was with regard to the Angle Fly Road names. The Supervisor said that they received a recommendation that the roads be named in case of an emergency. She said that based on the recommendation of Councilman Morrissey and the comments received they would name the trails Reynolds Run and Tatham Trail.

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

RESOLVED,

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Public hearing reg. Comcast Franchise Agreement

The Supervisor said that the next item was to schedule a public hearing with regard to the Comcast Franchise Agreement. She said that they received the agreement that day and asked the Board if they were prepared to schedule the hearing at that time. The Town Attorney they should schedule it and keep the hearing open if they were not prepared to make a decision in February.

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

RESOLVED, that the Town Board does hereby authorize the scheduling of a Public Hearing for Comcast Franchise Agreement for February 11, 2010.

FCC ruling reg. cell tower siting and municipal review

The next item on the agenda was a discussion with regard to the FCC ruling regarding cell tower siting and municipal review. The Supervisor said that it was new rules from the FCC which set out a time period in which cell tower reviews must be done. Discussion ensued with regard to the timeline that would have to be followed and the rules for starting and stopping the time clock. The Supervisor said that she was going to meet with the Town Planner to see where the pending applications were and setup a timeline template to be followed for each application and they would share it with the Town Attorney for his review as well as the Town Board.

Closing of Town House

The Supervisor said that the next item on the agenda was to authorize the closing of the Town House for records management purposes on Friday January 22nd.

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

RESOLVED, that the Town Board does hereby authorize the closing of the Town House for records management purposes on January 22, 2010.

PERSONNEL:

Current Vacancies:

Affordable Housing Board (3 – 2 year terms to July 11, 2011)
SARAC (1 - 2 year terms to July 12, 2010)
SARAC (4 - 2 year terms to July 12, 2011)
Substance Abuse Council (1 – 3 year term to December 31, 2009)
Substance Abuse Council (1 – 3 year term to December 31, 2010)
Substance Abuse Council (1 – 3 year term to December 31, 2011)
Zoning Board of Appeals (1 – unexpired 5 year term to December 31, 2014)
Library Board of Trustees (3 – 5 year terms to December 31, 2014)
Planning Board (1 – 7 year term to December 31, 2016)
Zoning Board of Appeals (1 – 5 year term to December 31, 2014)
Architectural Review Advisory Board (1 – 3 year term to March 31, 2011)
Board of Ethics – to serve at the pleasure of the Town Board
Open Space Committee – to serve at the pleasure of the Town Board

Upcoming Vacancies:

Conservation Board (4 – 2 year terms to March 15, 2012)
Parks and Recreation Board (2 – 3 year terms to March 9, 2013)

Appoint J. Papa P&R Board Chair

The Supervisor said that it was in order to appoint James Papa Chairman of the Parks and Recreation Board.

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

RESOLVED, that the Town Board does hereby appoint James Papa as Chairman of the Parks and Recreation Board for a January 1, 2010 to December 31, 2010.

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The next item was the consensus agenda.

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| Sale of one (1) wooden card catalog | 1. RESOLVED, that the Town Board does hereby authorize the sale of one (1) wooden card catalog to Barbara Sherry in the amount of \$50.00 per memo dated January 4, 2010 from Kathleen R. Pacella, Town Clerk. |
| Accept donation for the care and upkeep of Tomahawk Cemetery and Chapel | 2. RESOLVED, that the Town Board does hereby accept with gratitude a check in the amount of \$50.00 from Eugene & Pamela Piette for the care and upkeep of Tomahawk Cemetery and Chapel. |
| 2010 Fee Schedule for Planning and Engineering | 3. RESOLVED, that the Town Board does hereby authorize acceptance of the 2010 Fee Schedule for Planning and Engineering Departments per memo dated January 7, 2010 from Sabrina Charney-Hull, Town Planner. |
| Return Bonds | 4. RESOLVED, that the Town Board does hereby authorize the return of the following bonds to Boniello Land and Realty LTD for the Granite Springs Realty, LLC Site Plan per memos dated December 30, 2009 from Guy L. Gagne, P. E., Town Engineer:

a. \$ 3,049.00 – Erosion Control Bond – 27.05-1-12.
b. \$11,532.00 – Performance Bond – 27.05-1-12. |
| Accept Erosion Control Bond | 5. RESOLVED, that the Town Board does hereby authorize the acceptance of the following Erosion Control Bonds per memos from Guy L. Gagne, P. E., Town Engineer:

a. \$300.00 Utschig – Wetland & Stormwater Management and Erosion & Sediment Control – 38.13-2-6.
b. \$100.00 Nash Tree Removal Permit – 27.10-1-20.3.
c. \$200.00 Meadow Ridge Homes – Stormwater Management & Erosion & Sediment Control Permit – 4.18-1-16. |
| Accept State Wide Inspection Services to provide electrical inspections | 6. RESOLVED, that the Town Board does hereby give authorization to State Wide Inspection Services to provide electrical inspections in the Town of Somers. |
| Donate Police Car to SVFD | 7. RESOLVED, that the Town Board does hereby authorize donation of 2000 Crown Victoria Police Car to the Somers Volunteer Fire Department per memo dated November 15, 2009 from Michael W. Driscoll, Police Chief. |
| Review of Franzese Wetland Permit | 8. The Town Board reviewed the Franzese Wetland Permit Application for property known as 17.12-2-36 and has no comment. |
| Promotion of S. Woelfle to Principal Engineering Technician (Civil) probationary | 9. RESOLVED, that the Town Board does hereby authorize promotion of Steven Woelfle from Engineering Technician (Civil) to Principal Engineering Technician (Civil) probationary, to be placed at Grade 8 Step 4 on the CSEA schedule at an annual salary of \$67,500.00 until the CSEA contract is settled at which time Mr. Woelfle would be entitled to whatever the 2010 negotiated salary for Grade 8 Step 4 is determined to be per memo dated December 31, 2009 from Mary Beth Murphy, Supervisor. |
| Appoint Principal Engineer Technician (Civil) as authorized rep | 10. RESOLVED, that the Town Board does hereby appoint Principal Engineer Technician (Civil) as authorized representative under Town Code Chapter 93, Stormwater Management and Erosion and Sediment Control; Chapter 148, Steep Slopes; and Chapter 150-17 Subdivision Inspection of Improvements. |
| 2010 fee schedule for 2010 programs and services | 11a. RESOLVED, that the Town Board does hereby authorize permission to set the 2010 fee schedule for 2010 programs and services per memo dated |

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December 21, 2009 from Steven Ralston, Superintendent of Parks and Recreation.

Go to bid for Summer Camp trip transportation

- 11b. RESOLVED, that the Town Board does hereby authorize permission to go to bid for Summer Camp trip transportation (buses) for approximately fourteen (14) buses per week from June 28th through August 6th, 2010 per memo dated December 21, 2009 from Steven Ralston, Superintendent of Parks and Recreation.

Execute agreement with North East Special Recreation Inc

- 11c. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute agreement with North East Special Recreation Inc. for the January 1 – December 31, 2010 program year per memo dated December 21, 2009 from Steven Ralston, Superintendent of Parks and Recreation.

Execute agreement for Invision for auditing service of Wireless Cell phones

- 12a. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute agreement for Invision for auditing service of Wireless Cell phones.

Execute agreement for Virtual Town Hall for video streaming of Town meetings on the website

- 12b. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute agreement for Virtual Town Hall for video streaming of Town meetings on the website.

Execute Task Order 2-4.1 with Woodard & Curran

- 12c. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute Task Order 2-4.1 with Woodard & Curran for the Reis Park/Library Public Water Supply.

Refuse license for SaniPro

- 13a. RESOLVED, that the Town Board does hereby grant refuse and recycling license for 2010 to Sani-Pro Disposal Services Corp. dba/Suburban Carting Co., 566 North State Rd., Briarcliff Manor, NY 10510 to collect refuse in the Town of Somers, pursuant to Local Law No. 1-2007, which amended Local Law No. 6-1993, which amended Local Law No. 1-1989, which amended Local Law No. 3-1986 regulating the collection of residential refuse within the said Town of Somers, Chapter 109 of the CODE of the Town of Somers, for a period ending December 31, 2010 and as a condition of the License each Carter must provide recycling services for the residents of the Town of Somers and further that the Town Board does hereby encourage and recommend that the Licensed Carter issue a coupon, during the year for a free three cubic yard bulk pick-up to their customers.

Refuse license for Somers Sanitation

- 13b. RESOLVED, that the Town Board does hereby grant refuse and recycling license for 2010 to Somers Sanitation, Inc., PO Box 397, Somers, NY 10589 to collect refuse in the Town of Somers, pursuant to Local Law No. 1-2007, which amended Local Law No. 6-1993, which amended Local Law No. 1-1989, which amended Local Law No. 3-1986 regulating the collection of residential refuse within the said Town of Somers, Chapter 109 of the CODE of the Town of Somers, for a period ending December 31, 2010 and as a condition of the License each Carter must provide recycling services for the residents of the Town of Somers and further that the Town Board does hereby encourage and recommend that the Licensed Carter issue a coupon, during the year for a free three cubic yard bulk pick-up to their customers.

Refuse License for Mayfield

- 13c. RESOLVED, that the Town Board does hereby grant refuse and recycling license for 2010 to Mayfield Carting Service, Inc., 131 Plainfield Avenue, PO Box 650, Bedford Hills, NY 10507 to collect refuse in the Town of Somers, pursuant to Local Law No. 1-2007, which amended Local Law No. 6-1993, which amended Local Law No. 1-1989, which amended Local Law No. 3-1986 regulating the collection of residential refuse within the said Town of Somers, Chapter 109 of the CODE of the Town of Somers, for a period ending December 31, 2010 and as a condition of the License each Carter must provide recycling services for the residents of

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the Town of Somers and further that the Town Board does hereby encourage and recommend that the Licensed Carter issue a coupon, during the year for a free three cubic yard bulk pick-up to their customers.

Accept 2010
Highway
Materials Bids

14. RESOLVED, that the Town Board does hereby accept low bids for the 2010 Highway Materials per memo from Thomas E. Chiaverini, Superintendent of Highways.

Public Hearing on
revisions to the Somers
Town Code Article 1
Chapter 50, Purchasing

15. RESOLVED, that the Town Board does hereby authorize scheduling a Public Hearing on revisions to the Somers Town Code Article 1 Chapter 50, Purchasing.

Refer
proposed
Town Code
Changes

16. RESOLVED, that the Town Board does hereby refer proposed Town Code Changes which would authorize the Town Board to appoint an authorized representative in addition to the Town Engineer for administration enforcement and approval of Chapter 156 Tree Preservation and Chapter 167, Wetlands to the Planning Board and Conservation Board for comment.

Discuss possible
municipal
acquisition of
utilities

17. RESOLVED, that the Town Board does hereby authorize the Supervisor to meet with Town's Counsel; Heritage Hills Society President, Richard Benedict and owners of Heritage Hills Sewer & Water Company to discuss possible municipal acquisition of utilities.

Budget
Modifications

- 18a. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for overage in budget line per memo dated December 21, 2009 from Barbara J. Sherry, Confidential Secretary to the Supervisor.

From: 1620.401 – Building fuel
To: 6410.4 – CATV Contractual \$2,675.00

- 18b. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for overage in budget line per memo dated December 15, 2009 from Barbara J. Sherry, Confidential Secretary to the Supervisor.

From: 1620.401 – Buildings Fuel
To: 1620.404 – Buildings Supplies \$600.00

- 18c. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for overage in budget line per memo dated January 7, 2010 from Barbara J. Sherry, Confidential Secretary to the Supervisor.

From: 6510.4 – Veterans Services – American Legion
To: 6510.4 – Veterans Services – Veterans of Foreign War \$350.94

- 18d. RESOLVED, that the Town Board does hereby authorize a budget modification to transfer donation for upkeep of Tomahawk Chapel cemetery to the Pickney Endowment Fund, which has paid for cemetery cleanup per memo dated January 7, 2010 from Joan E. Kachmarik, Director of Finance.

From: Trust & Agency – 021-9950-0900 – Interfund Transfer
To: Trust & Agency 027-0027-5031 – Interfund Transfer \$50.00

- 18e. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for overage in budget line per memo dated January 11, 2010 from Kathleen R. Pacella, Town Clerk.

From: 1460.44 – Records Management Supplies

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- To: 1410.4 – Town Clerk Contractual \$26.72
- 18f. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for overage in budget line per memo dated January 8, 2010 from Glenn A. Droese, Assessor.
- From: 1355.4 – Assessment Contractual
To: 1355.1 – Assessment Personal Services \$120.09
- 18g. RESOLVED, that the Town Board does hereby authorize a budget modification to cover shortage in overtime line per memo dated January 13, 2010 from Judge Michael J. McDermott, Town Justice.
- From: 1110.1 – Court – Salaries
To: 1110.11 – Court – Overtime \$3,218.01
- 18h. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for overage in budget line per memo dated January 13, 2010 from Barbara J. Sherry, Confidential Secretary to Supervisor.
- From: 8160.4 – Energy & Environment – Town clean-up/drop-off
To: 8160.1 – Energy & Environment – Personal Service \$25.28
- 18i. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for unanticipated State imposed tax per memo dated January 13, 2010 from Joan E. Kachmarik, Director of Finance.
- From: 001-9030-0800 – Social Security
To: 001-1980-0400 – MTA Payroll Tax \$10,526.79
- 18j. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for unanticipated State imposed tax per memo dated January 13, 2010 from Joan E. Kachmarik, Director of Finance.
- From: 002-9030-0800 – Social Security
To: 002-1980-0400 – MTA Payroll Tax \$2,622.90
- 18k. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for unanticipated State imposed tax per memo dated January 13, 2010 from Joan E. Kachmarik, Director of Finance.
- From: 051-9030-0800 – Social Security
To: 051-1980-0400 – MTA Payroll Tax
- 18l. RESOLVED, that the Town Board does hereby authorize a budget modification Interfund charges for 2009 were higher than expected per memo dated January 13, 2010 from Adam Smith, Water Superintendent.
- From: 040-8120.0400 – Sewer District Contractual \$327.93
To: 040-8110.0401 – Interfund Charges \$221.52
040-8120-0401 – Interfund Charges \$106.41
- 18m. RESOLVED, that the Town Board does hereby authorize a budget modification to provide payment for 4th Quarter 2009 Unemployment Insurance per memo dated January 13, 2010 from Joan E. Kachmarik, Director of Finance.
- From: 001-9030-0800 – Social Security
To: 001-9050-0800 – Unemployment Insurance \$1,394.60

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- 18n. RESOLVED, that the Town Board does hereby authorize a budget modification to provide payment for 4th Quarter 2009 (10/1/09-12/31/09) Unemployment Insurance per memo dated January 13, 2010 from Joan E. Kachmarik, Director of Finance.

From: 002-9030-0800 – Social Security

To: 002-9050-0800 – Unemployment Insurance \$1,018.39

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

Councilman Clinchy said that at the last meeting they discussed the Refuse Carters having to comply with the Town Code with regard to recycling. He asked the Town Clerk if she had an update for them with regard to that. The Town Clerk said that she had been in contact with Westchester County and was waiting for a call back from Sean O'Rourke. She said that the County would only accept plastics #1 and #2, our Carters do not take their refuse to the County, and they go to private dump sites. She continued that sometime they will collect plastics #3, #4, and #5, but sometime they will not. The Town Clerk said that Mr. O'Rourke was going to check with the Commissioner to ensure if the Town Code did not supersede County Code. She said that it was explained to her that because the recyclables were going to a private facility the Town should have a backup plan for the recycling in case the private facilities closed. She said that was because Somers was one of the 7 Towns that opted out of joining the IMA with the County and that they may have a problem if the private Carters lose their Recycling Facilities. The Town Clerk said that the County cannot force the private Carter to collect recycling; the Town had to hire their own Code Enforcement to enforce their Town Code. The Supervisor said that they would have to contact the Carter and ask them to update their information to comply with the Somers Code and that they need to take the recycling to a facility that will take plastics #3, #4, and #5 as well.

The Supervisor said on behalf of the Town Board their thoughts and their prayers were going out to everyone in Haiti and the terrible tragedy that had occurred there. She reminded everyone that wanted to make a contribution to the American Red Cross they can do so online or by text message. She said that their heart goes out to the one Somers' resident that was in Haiti at the time of the earthquake and the family.

Claims for the payment of all Town Bills in the amount of \$1,321,808.75 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 Garrity, seconded by Supervisor Murphy, the meeting was adjourned to an executive session with regard to personnel at 8:35 PM not to return that evening.

Town Clerk