

OCTOBER 8, 2009 – REGULAR MEETING

Minutes of a regular meeting of the Town Board of the Town of Somers held on Thursday evening October 8, 2009 at 7:40 PM at the Town House 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:       Supervisor       Mary Beth Murphy  
                  Councilman       Paul Z. Meyer, Jr.  
                  Councilman       George R. Dieter  
                  Councilman       Richard G. Clinchy  
                  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.

PUBLIC COMMENT:

Dr. Henry Olsen, said on behalf of the residents of Somers and especially the residents of Heritage Hills they wanted to thank Senator Leibell, the Supervisor and the Town Board for assisting them to obtain a grant for the emergency generator and creating an emergency site at Heritage Hills.

The Supervisor said that was a good thing for the whole Town.

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

The Supervisor said that it was in order for the Board to continue a public hearing with regard to the petition to extend the Amawalk-Shenorock Water District to include the Planned Hamlet Subdivision.

7:45 PM – public hearing opened  
8:15 PM – meeting reconvened

The Supervisor said that the next item on the agenda was approval of the minutes.

Approval of the minutes

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

RESOLVED, that the Town Board does hereby approve the minutes of the September 10, 2009 Public Hearing regarding the petition to extend of the Amawalk-Shenorock Water District to include the Martin/Pierz properties; the September 10, 2009 Public Hearing regarding the Proposed Amendment to Chapter 167 Wetland and Watercourse Protection and Chapter 156 Tree Preservation; the September 10, 2009 Public Hearing regarding the petition to extend the Amawalk-Shenorock Water District to include the Planned Hamlet; the September 10, 2009 Regular Meeting and the October 1, 2009 Work Session.

Monthly reports

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 Plumbing. She also announced under New York State Division of Alcoholic and Beverage Control, State Liquor Authority that Hana's Japanese Restaurant, located at 325 Route 100, Somers Centre, Somers was renewing their Liquor License.

Res of Support of the an Agricultural Easement w/ reg. to Stuart Farm

The next item on the agenda was with regard to a resolution of support for the purchase of an Agricultural Easement with regard to Stuarts Farm. The Supervisor said that the Westchester Land Trust as well as the County made an application for funding through the State Farmland Protection Implementation Grant, she wrote a letter of support for that application and the Board had asked for funding along the way from various other sources with regard to protecting this very important piece of Farmland in the Town. She

OCTOBER 8, 2009 – REGULAR MEETING

said that the County was enthusiastic to move forward on this project. She said that they had presented to the Town Board a draft Resolution asking for their support as well as a draft Inter Municipal Agreement and draft Easement. Discussion ensued with regard to if the property was going to be subject to Town a Code and suggested changes to the draft Resolution.

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

RESOLVED, that the Town Board does hereby adopt resolution of support for purchase of Agricultural Easement for Stuart's Fruit Farm,

WHEREAS, the New York State Farmland Protection Implementation Grant Program (the "Program") was designed to help protect and preserve farmland throughout the State by providing financial assistance to towns and counties with adopted Agriculture and Farmland Protection Plans to support local farmland protection activities; and

WHEREAS, the Westchester County Agriculture and Farmland Protection Plan (the "Plan") was prepared in 2004 and approved by the New York State Department of Agriculture and Markets ("NYSDAM") on April 7, 2005; and

WHEREAS, the Plan recognizes the value of protecting farmland and the agricultural industry as critical to protecting the environment and reducing the impacts of sprawl, preserving cultural history, enhancing scenic vistas and community character, and providing fresh food and economic opportunities, and the Plan specifically recommends participating in programs such as this to protect farmland; and

WHEREAS, the County has created various funds to purchase open space and to protect farmland throughout the county, which furthers the public policy of preserving open space in light of recent community growth rates, which have risen as rapidly as 13% annually; and

WHEREAS, the County intends to further serve the public policy of reducing potential impacts to water quality within the county and to prevent water degradation while enhancing community character as described and recommended in the Croton Plan for Westchester and through collaborative efforts with the Watershed Agricultural Council; and

WHEREAS, the Town of Somers (the "Town") shares this recognition of the value of agriculture and has adopted similar policies to protect open space, community character and natural resources; and

WHEREAS, the protection of farmland and agriculture will serve the public interest of both the local community and the county as a whole for the reasons stated herein; and

WHEREAS, the Stuart's Fruit Farm (the "Farm"), the farm which the County and the Town seek to protect and preserve, is located within the boundaries of the Town of Somers, which is located within the boundaries of the New York City Watershed; and

WHEREAS, the County, the Town of Somers and the title owner of the Farm, the Stuart Family ("Property Owner"), are all committed to participating in the Program; and

WHEREAS, the Town submitted a letter of support as part of the grant application and agrees to assist in preserving the Farm by contributing an amount not to exceed ONE MILLION, ONE HUNDRED TWENTY FIVE THOUSAND (\$1,125,000) DOLLARS or approximately twenty five (25%) percent of the easement value, in order to meet the Program's matching contribution requirements; subject to the requirements of local finance law including but not limited to permissive referendum and

WHEREAS, the County will enter into or has already executed an agreement to receive a New York State Department of Agriculture and Markets Farmland Protection Implementation Grant ("Grant") pursuant to the Program with New York State (the

OCTOBER 8, 2009 – REGULAR MEETING

“State”) for a total project cost not to exceed FOUR MILLION, SIX HUNDRED THIRTY-TWO THOUSAND, NINE HUNDRED TWENTY FIVE (\$4,632,925) DOLLARS, with funds to be provided in not-to-exceed amounts as follows:

- TWO MILLION, TWO HUNDRED NINETY-TWO THOUSAND, NINE HUNDRED TWENTY FIVE (\$2,292,925) DOLLARS from the State pursuant to the Program;
- ONE MILLION, TWO HUNDRED THOUSAND (\$1,200,000) DOLLARS, from the County, which consists of ONE MILLION, ONE HUNDRED TWENTY FIVE THOUSAND (\$1,125,000) DOLLARS towards the easement value and SEVENTY FIVE THOUSAND (\$75,000) DOLLARS towards other costs associated with the preparation of the easement, closing documents, and reports and site surveys required by the grant;
- In-kind services in the amount of FIFTEEN THOUSAND (\$15,000) DOLLARS from the County;
- ONE MILLION, ONE HUNDRED TWENTY FIVE THOUSAND (\$1,125,000) DOLLARS from the Town of Somers; subject to the requirements of local finance law including but not limited to permissive referendum and

WHEREAS, the County agrees to ensure that the Farm continues as viable agricultural farmland as required by the Grant; and

WHEREAS, the Town and the County agree that the Town’s sole responsibility shall be to provide an amount not to exceed the \$1,125,000 contribution towards the easement acquisition costs, the final amount to be further determined by an updated appraisal, and the Town shall have no other responsibility for the Farm or to the County.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Somers authorizes the Supervisor to enter into discussions with the County of Westchester to facilitate the preparation of an Intermunicipal Agreement (IMA) to accomplish the aforementioned.

Performance Bond posted for Heritage Hills Condo 14 Maintenance Area Access Road

The Supervisor said that the next item was to review a recommendation that the Performance Bond posted for Heritage Hills Condo 14 Maintenance Area Access Road be released by the Planning Board. She said that she did reach out the Condo 14 and they did not have any issues with the release of the Bond.

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

RESOLVED, that the Town Board does hereby authorize release of the Performance Bond Irrevocable Letter of Credit No. 800451 in the amount of \$40,000.00 for the Heritage Hills Condo 14 Maintenance Area Access Road per memo dated September 25, 2009 from Marilyn Murphy, Planning Board Secretary.

Somers Home Heating Oil Plan

The next item was to adopt a resolution to establish a Somers Home Heating Oil Plan. The Supervisor said that she drafted a simplified version of the plan that was being used in Cortlandt and Yorktown. She said that both of those Municipalities were collecting a \$5.00 fee and requiring that the residents sign up. She said that it would be easier if they made the agreement with the Companies and when people could show proof of residence they would be entitled to the discount. Councilman Clinchy asked if this was done last winter. The Supervisor explained that they did not because they were concerned that there was discussion of Law Suits and things of that nature that were on going. She said that they did not adopt a Resolution, they were waiting to see the outcome of the Law Suits or if that came to fruition, which they have not. She said that she had been approaching a number of Oil Companies and at least one of them sent them a memo, which she did not feel compelled by. The Supervisor said that some of the Companies had said that the State would be critical of this at some point. She said that it had not been a problem to Cortlandt or Yorktown. Councilman Meyer asked why the State would be critical. The Supervisor said that people would make the allegation that it was price fixing. She said that they were just going to create a list of companies that were willing give Somers residents a particular price above terminal price. She said that from

OCTOBER 8, 2009 – REGULAR MEETING

talking to the Oil Companies it tended to be the cash on delivery companies that were willing to participate. The Supervisor said that she was looking into having people register on the new website but it was only for residential customers.

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

RESOLVED, that the Town Board does hereby adopt resolution establishing, Somers Home Heating Oil plan

WHEREAS, the cost of home heating fuel is a major expense for Town residents,

WHEREAS, the Town Board has great concerns for its residents with respect to the anticipated cost of home heating oil, and

WHEREAS, it is the desire of the Town Board to attempt to establish a program that may possibly assist homeowners within the Town with the cost of fuel, and

WHEREAS, said program would also benefit companies who participate in it in given them free advertising and access to residents in Town:

NOW, THEREFORE BE IT RESOLVED, that the Somers Town Board does hereby establish the Somers Heating Oil plan, and

BE IT FURTHER RESOLVED that the following shall apply to said program;

1. A page will be created on the Town's website which will list on regular basis participating home heating oil suppliers.
2. The companies who agree to participate in this program will agree to provide oil at a price of 40 cents over the barge cost, or 30 cents over the terminal cost and guarantee that this is their lowest available price.
3. Calls for delivery and all arrangements for payment would be between the citizen and the oil company. The Town would play no roll in that and would neither collect nor spend any public funds in that regard.
4. There would be a minimum delivery requirement of 100 gallons and if it is paid by cash or check, they would receive an additional 2% discount on a COD basis.
5. The program is open to residential parties of the Town of Somers only. Residents will provide proof of residency to the Oil Company.
6. The Town will prepare a web page which will include a listing of all the oil companies who are participating and the general aspects of the program. Additionally, each oil Company is requested to be available to provide simple energy audits for any homeowner or NYSERTA sponsored energy audits for any homeowner who wishes that at a small fee.
7. It is hereby resolved that the Supervisor's Office shall coordinate this program

BE IT FURTHER RESOLVED, that the Supervisor is authorize to execute agreements with oil companies to effectuate the purpose of this resolution, and

BE IT FURTHER RESOLVED that the official start date of this program be on or about November 1, 2009 or at such other dates as announced by the Town Supervisor.

The Supervisor said that the next item on the agenda was to authorize the execution of the Nelson Tax Lien Foreclosure Settlement.

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

OCTOBER 8, 2009 – REGULAR MEETING

RESOLVED, that the Town Board does hereby authorize execution of Nelson Tax Lien Foreclosure settlement

WHEREAS, the Town of Somers, as part of the process under the Real Property Tax Law to enforce 2004 and older tax liens on properties within the Town, has prosecuted tax foreclosure proceedings against such properties in the Supreme Court, Westchester County; and

WHEREAS, as part of the tax foreclosure proceedings, the Town was granted a Judgment of Foreclosure against those properties where the tax liens were not redeemed; and

WHEREAS, the Town, pursuant to the Judgment of Foreclosure, executed a tax deed, and took title to the properties listed in the Judgment of Foreclosure; and

WHEREAS, Bonnie Lieto Nelson, the prior owner of one of the foreclosed properties, located at 4 Hollywood Place (Tax ID: Section 26.7, Block 1, Lot 7), have instigated proceedings to have the tax deed set aside; and

WHEREAS, the litigation is now pending in the Supreme Court, Westchester County; and

WHEREAS, the Town and the property owner have reached a mutually agreeable resolution of the litigation; and

WHEREAS, the resolution reached results in the tax liens at issue on this property being fully redeemed and satisfied; and

WHEREAS, the resolution reached establishes mechanisms so that the property stays current on the taxes for the property, so that the property will not return to the foreclosure process; and

WHEREAS, the resolution reached does not require a compromise of the tax liens, interest and/or penalties associated with the unpaid taxes; and

WHEREAS, the resolution reached is in the best interests of the Town;

NOW THEREFORE BE IT RESOLVED, Special Counsel to the Town is hereby authorized to execute a settlement on behalf of the Town, where the Town would receive the amount of One Hundred Fifteen Thousand Dollars (\$115,000.00); in return, upon this payment, the Town would execute a deed to the property back to the Bonnie Lieto Nelson, the prior owner of the property.

Reduction of Wooded Acres Subdivision Performance Bond

The next item on the agenda was to consider a reduction of the Wooded Acres Subdivision Performance Bond.

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

RESOLVED, that the Town Board does hereby authorize reduction of the Performance Bond posted for the Wooded Acres Subdivision in the form of Irrevocable Standby Letter of Credit issued under M&T Bank No. SB-906401-2000 be reduced from the amount of \$618,449.00 to \$225,180.00 as recommended by the Town Engineer per memo dated October 8, 2009 from Marilyn Murphy, Planning Board Secretary.

Res. of support of Willows request to the PSC for a rehearing of the Water Rate Increase

The Supervisor said that the next item was a resolution of support with regard to the Willows request to the PSC for a rehearing of the Water Rate Increase. She said that she shared with the Board a letter that she had written to the PSC and she met with the Willow's Board and they were very concerned about the issue. She said that the Willow's Board drafted a letter to send to the PSC and she felt that a Resolution of support from the Town Board would strengthen there application for a rehearing.

OCTOBER 8, 2009 – REGULAR MEETING

Councilman Dieter said that the increase was outrageous. The Supervisor said that way the whole thing transpired they were almost duped. Councilman Meyer said that the residents were duped and explained that the issue was the information that was proved to the residents was not the most current information with regard to the rate change. Discussion ensued with regard to the rate increase.

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

RESOLVED, that the Town Board does hereby authorize a resolution of support regarding the Willows request to the PSC for a rehearing of water rate increase,

WHEREAS, Case 08-W-0107 – Proceeding on Motion of the Commission as the Rates, Charges, Rules and Regulations of Aqua New York, Inc. impacts on the water rates of the residents of the Willows, a small condominium complex located in Somers, New York, and

WHEREAS, the Willows has recently experienced a water rate increase from \$82.00 per quarter to \$221.48 per quarter. In addition a water rate increase from \$5.02 per thousand gallons to \$5.50 per thousand gallons has been imposed, and

WHEREAS, several items have come to the Town Boards attention that warrant that the Commission open this case and rehear the application for a rate increase, and

WHEREAS, when the application for a rate increase was initially submitted to the PSC, it was combined with an application to implement a new rate design. The Willows residents were informed that pursuant to this application their rates would change from \$82.00 per quarter to \$98.77 per quarter, and

WHEREAS, given the reasonableness of this information, the Willows residents, sensitive to the volume of review work the PSC must undertake, did not object, and

WHEREAS, subsequently, the application to implement a new rate design was denied, and

WHEREAS, the Willows residents were not informed that that denial would catastrophically change the magnitude of the rate increase being sought. Thereafter, the new rate increase noted above was adopted, and

WHEREAS, this rate schedule was never contemplated by the residents of the Willows who certainly would have objected had they been aware that Aqua, New York, Inc. was requesting it and the PSC was considering it, and

WHEREAS, on September 30, 2009 the Board of Directors of the Home Owners Association of the Willows requested a rehearing on the matter, and

WHEREAS, on February 10, 2009 Willow resident Jane Pokorny filed an objection and request for a rehearing within 30 days of the Commission's decision, and

WHEREAS, material obtained by Ms. Pokorny from the PSC demonstrates that \$128,321.09 of the costs submitted by Aqua New York, Inc. to justify the rate increase do not appear to exist, and

WHEREAS, the quarterly rate increase from \$82.00 to \$221.48 has an enormous impact on consumers in today's economic climate, and

WHEREAS, the rate increase imposed is contrary to prior PSC orders regarding Aqua NY, Inc. (Dykeer) which set forth an 11 year plan which restricts the increases allowable to certain percentages of the gross domestic product deflator, and

WHEREAS, simple due process mandates that the residents of the Willows be afforded an opportunity to challenge a rate that was set without their input based on misleading information that was provided to them.

OCTOBER 8, 2009 – REGULAR MEETING

IT IS HERBY RESOLVED THAT that the Public Service Commission is requested to conduct a rehearing on this application and provide the Willows residents with an opportunity to conduct discovery and present evidence opposing the rate increase requested by Aqua, NY.

VOTE:           AYES           4       Murphy, Dieter, Clinchy, Garrity  
                  NAYS           0  
                  RECUSED    1       Meyer

Temporary waiver of the Application Process Restrictive Law

The next item was a temporary waiver of the Application Process Restrictive Law. The Supervisor said that this was their first application and explained the new legislation. She said that they should consider placing a time frame for the waiver. Councilman Meyer said that he wanted to hear from the Town Engineer as to why when the violation was written it was to just to remove the violation not to remove or apply. The Supervisor said that because now they have the legislation in place the Town Engineer cannot say that. The Town Attorney explained that the Town Engineer was stating that the way the resident could get authorization for what they had done by getting the appropriate permits which required an application to the Planning Board and the Town Engineer was not opposed to that. He said that he was sure that as part of any permit that the Planning Board may consider they would impose some level of mitigation so that whatever impact occurred to the wetlands would be rectified, which was better than a nominal fine. Councilman Meyer said that he would be fine with that if erosion control was put into place immediately and no further work was done pending the outcome of the application. The Supervisor said that all of those conditions were included in any waiver that they would issue. She asked the Town Attorney to draft something for the Board's consideration.

Request for speed humps on Old Mill and Tighe Road

The Supervisor said that the next item on the agenda was to refer out a request for speed humps on Old Mill and Tighe Road. Councilman Clinchy asked to add to this Old Croton Falls Road. The Supervisor said that she thought they had done that but she would add it. Councilman Dieter said that they should add the Police Chief to the referral. He said that he was concerned that they have had a secession of requests for Stop Signs and now for speed humps and the impression that had been given was all people needed to do was request them and they will get it. He continued that they refer the requests out to the interested parties and even if it was found unwarranted they get them anyway. Councilman Dieter said that if there was going to be no rhyme or reason to if they get them or not, they should just put Stop Signs up everywhere. He said that the residents requested Stops Sign and got them and now they want something else. He said that they needed some sort of policy or procedure. Councilman Clinchy said that he agreed and sometime in the future they should look at that. Councilman Dieter said that in this case of it being speed humps they should also add the Fire Department to the referral. The Supervisor explained that they had been asked in the past about speed humps and no one had ever been in favor of speed humps.

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

RESOLVED, that the Town Board does hereby refer request for speed humps on Old Mill Road, Tighe Road, and Old Croton Falls Road to the Highway Superintendent, Town Engineer and Police Chief for their review and comments.

Dedication of a trail and a bridge at the Angle Fly Preserve

The next item on the agenda was a dedication of a trail and a bridge at the Angle Fly Preserve. The Supervisor said that the first trail opened last Saturday and it was lovely. She encouraged all to go and enjoy it. She said that it was open from 7 am to dusk and it was an easy 1.8 mile trail. Councilman Garrity said that it was amazing what a great job that they had done. Michael Barnhart and his crew should be congratulated. He said that he was looking forward to the next trail they open up. Councilman Dieter said that it was a very pleasant, very accessible trail. He said that it was beautiful and quiet. He said that 2 suggestions of dedications were wonderful ideas. Councilman Clinchy said that it was a nice ceremony on Saturday and Michael Barnhart was generous with his praise but the Supervisor was right on in saying that Mr. Barnhart had been a driving force there. The

OCTOBER 8, 2009 – REGULAR MEETING

Supervisor said that there was quite a group of people that were involved in the process. She said that she agreed with Councilman Dieter about the dedications.

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

RESOLVED, that the Town Board does hereby authorize that the new yellow trail in the Angle Fly property be dedicated in memory of Peter Burkmeyer per letter dated October 7, 2009 from Michael Barnhart, President of the Somers Land Trust.

RESOLVED, that the Town Board does hereby authorize that the bridge that will cross the brook in Angle Fly be dedicated in memory of John Behler per letter dated October 7, 2009 from Michael Barnhart, President of the Somers Land Trust.

Defer construction of a new hiker's parking lot

The Supervisor said that the next item was to defer construction of a new hiker's parking lot and recognize that trail amenities necessarily be considered in the future discussion with regard to a Community Center. She said that this was something that they needed to keep in mind.

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

RESOLVED, that the Town Board does hereby defer construction of the new hiker's parking lots and recognize that trail amenities necessarily be considered in future discussion regarding the community center per letter dated October 7, 2009 from Michael Barnhart, President of the Somers Land Trust.

Review and comment for the Mews at Baldwin Place

The next item was review and comment with regard to the Mews at Baldwin Place. The Supervisor said that they just received this that day and she looked at it briefly and she would rather hear what the Planning Board had to say about it before she commented. She said that it seemed to be inline with what had been discussed. Councilman Meyer asked if this could be held over because they did just get it. He said that the work session agenda was fine for it to be placed on. He said that he agreed with the Supervisor he would like to hear the Planning Board's comments as well.

PERSONNEL:

Current Vacancies:

- Affordable Housing Board (3 – 2 year terms to July 11, 2011)
- Parks and Recreation Board (1 – unexpired terms to March 9, 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, 2009)

Upcoming Vacancies:

- 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)

Consensus Agenda

The Supervisor said that the next item on the agenda was the consensus agenda. She said that item 9a was being removed from the agenda. She explained that the Energy Advisory Panel asked to have that temporarily removed for additional research. Councilman Meyer said with regard to item 9b, he was not strictly in favor of granting reduced permits for all hybrid vehicles. He said that the goal should be more fuel efficient vehicles. A brief discussion ensued with regard to the vehicles that should qualify for the reduced rate. Councilman Meyer said with regard to item number 17 he

OCTOBER 8, 2009 – REGULAR MEETING

suggested language to be added. The Supervisor said that it was be added it was left out to condense the consensus agenda description.

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

Acknowledge  
resignation of  
R. Lamb – PT  
Police Officer

1. RESOLVED, that the Town Board does hereby acknowledge resignation of Richard G. Lamb as part-time Police Officer effective September 16, 2009.

Acknowledge  
resignation of  
K. Cord -  
ZBA

2. RESOLVED, that the Town Board does hereby acknowledge resignation of Kenneth Cord from the Zoning Board of Appeals effective October 1, 2009 per e-mail dated September 14, 2009 from Kenneth Cord.

Budget  
Modifications

- 3a. RESOLVED, that the Town Board does hereby authorize a budget modification to increase both revenue and appropriations for the NYC DEP Stormwater Management Program Capital Project to reflect interest earned (2006-2009) and permit the expenditure of this funding per memo dated September 17, 2009 from Joan E. Kachmarik, Director of Finance.

From: Increase Capital Projects Fund – 054-2406 – Revenues Interest  
To: Increase Capital Projects Fund – 054-5198.4 – Appropriations Contractual  
\$3,915.75

- 3b. RESOLVED, that the Town Board does hereby authorize a budget modification for numerous vehicle repairs per memo dated October 6, 2009 from Police Chief Michael Driscoll.

From: 3120.2 – Police Equipment  
To: 3120.4 – Police Contractual \$26,000.00

- 3c. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for overage in budget line per memo dated October 7, 2009 from Barbara J. Sherry, Confidential Secretary to the Supervisor.

From: 1010.4 – Town Board – Contractual  
To: 1920.4 – Special Items Municipal Dues \$285.00

- 3d. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for overage in budget line and additional funding per memo dated October 7, 2009 from Joan E. Kachmarik, Director of Finance.

From: 1990.4 – Contingency  
To: 1420.41 – Legal Services Town Attorney Other \$20,000.00

Release  
Bonds

4. RESOLVED, that the Town Board does hereby authorize release of the following Erosion Control Bonds per memos from Guy L. Gagné, P. E., Town Engineer:

- a. \$100.00 Jones – Tree Preservation Permit – 17.10-1-24
- b. \$100.00 Mark – Steep Slope Permit – 28.13-1-32
- c. \$200.00 Urstadt Biddle Properties – Wetland Permit – 17.15-1-13
- d. \$100.00 Lucia – Erosion & Sediment Control Permit – 4.18-1-18

Accept  
Erosion  
Control  
Bonds

5. RESOLVED, that the Town Board does hereby authorize acceptance of the following Erosion Control Bonds per memos from Guy L. Gagné, P. E., Town Engineer:

- a. \$100.00 Mullaney – Tree Preservation Permit – 5.19-1-57
- b. \$100.00 Esposito – Tree Preservation Permit – 28.13-1-2

OCTOBER 8, 2009 – REGULAR MEETING

- c. \$200.00 Arturi – Stormwater Management & Erosion & Sediment Control Permit – 17.09-2-33
- d. \$3,600.00 T-Mobile Northeast – Erosion Control Permit – 4.20-1-11
- e. \$200.00 Dahling – Stormwater Management & Erosion & Sediment Control Permit – 37.06-1-4
- f. \$100.00 Douglas – Stormwater Management & Erosion & Sediment Control Permit – 37.20-2-1.1
- g. \$100.00 Deohardi – Wetland Permit – 26.12-2-20

Refund  
SEQRA  
Fees

6. RESOLVED, that the Town Board does hereby authorize refund of the SEQR Professional Fee Account for the Lupi Realty Development Corporation Site Plan in the Amount of \$390.50 per memo dated September 11, 2009 from Guy L. Gagné, P.E., Town Engineer.

Release  
Lupi Site  
Plan

7. RESOLVED, that the Town Board does hereby authorize release of the balance of the Performance Bond for incomplete items for the issuance of a CO, Tax ID 5.13-1-1 per memo dated September 15, 2009 from Guy L. Gagné, P.E., Town Engineer:

- a. \$3,000.00 Performance Bond for Incomplete Items to Maza Holding
- b. \$3,627.00 – Erosion Control Bond Lupi Plaza Realty Corp.

Accept  
petition  
to extend  
ASWD

8. RESOLVED, that the Town Board does hereby approve the following,

WHEREAS, the Town Board of the Town of Somers previously approved the Martin/Pierz Extension to the Amawalk-Shenorock Water district and in connection therewith the Town Engineer has calculated the buy-in-fee for each of the two properties in the extension area and has incorporated that calculation into a memorandum dated September 3, 2009

WHEREAS, it has been determined by the Town Engineer that the “buy-in” amount will be \$2,729.67 for property known as 36.07-1-22, 33 Mahopac Avenue owned by Michael E. & Kathleen Martin for the years 2002 to 2009 and,

WHEREAS, it has been determined by the Town Engineer that the “buy-in” amount will be \$5,626.35 for property know as 36.07-1-17 35 Mahopac Avenue owned by Michael W. Sr., & Ilene Pierz for the years 2002 to 2009,

NOW THEREFORE, BE IT

RESOLVED, that the Town Board hereby authorizes the Finance Department to accept payment of the buy-in fees set forth in said memo and that same shall be paid in full prior to connection to the system.

- 9a. REMOVED

Reduces  
Parking  
Permit cost  
for Hybrids

- 9b. RESOLVED, that the Town Board does hereby authorize a \$5.00 reduction of the Somers application fee to any Somers resident that has a Katonah Parking Permit if they own a hybrid vehicle.

Town wide  
Bulk drop  
off

10. The Supervisor announced Town-wide Bulk Drop-Off beginning Saturday, October 17, 2009 and ending November 14, 2009.

Support of Town  
Planner's  
recommendations  
w/reg to  
amendments to the  
Erosion Control and  
Site Plan Submittal

11. RESOLVED, that the Town Board does hereby support recommendation of the Town Planner regarding the proposed amendments from the Conservation Board to the Town code to Erosion Control and Site Plan Submittals.

Schedule  
Public  
Hearing  
w/reg. to  
Stop Signs

12. RESOLVED, that the Town Board does hereby authorize a Public Hearing for Stop Signs at the Northeast corner of Larch and Tulip and Northeast

OCTOBER 8, 2009 – REGULAR MEETING

corner of Evergreen and Tulip for November 12, 2009 per memo dated September 14, 2009 from Thomas E. Chiaverini, Superintendent of Highways.

Appoint  
Committee  
w/reg. to  
Westchester  
County  
Settlement  
Agreement – Fair  
and Affordable  
Housing

13. RESOLVED, that the Town Board does hereby appoint a committee to review the Westchester County Settlement Agreement with the federal government regarding the Fair and Affordable Housing as it relates to Somers and make recommendations.

WHEREAS, the committee, shall consist of Supervisor Mary Beth Murphy, Barry Singer, Chairman of the Affordable Housing Board, Town Planner Sabrina Charney Hull Councilman George R. Dieter and Carol Sturtz, Member of the Somers League of Women Voters.

2011-2012  
NYS DOT  
Snow and  
Ice  
Agreement

14. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the 2011-2012 New York State Department of Transportation Municipal Snow and Ice Agreement Extensions per letter dated September 29, 2009 from Chuck A. Walter, NYSDOT.

Acknowledge  
retirement of  
G. Zinser from  
Highway

15. RESOLVED, that the Town Board does hereby acknowledge the retirement of Guy Zinser, Motor Equipment Operator, effective November 14, 2009 per letter dated October 2, 2009 from Guy Zinser.

NYS DOT  
study of  
speed  
reduction  
on Rt. 139

16. RESOLVED, that the Town Board does hereby authorize resolution to New York State Department of Transportation to study possible speed limit reduction on Route 139 regarding Study #809-3015; File 55.45-129 Route 139 in the community of Lincolndale, Traffic Speed Study, Town of Somers, Westchester County, ML7171 per letter dated October 5, 2009 from David Parker, Civil Engineer I.

Accept Performance  
Bond for Library  
Boiler Replacement  
Project

17. RESOLVED, that the Town Board does hereby accept \$23,500.00 Performance Bond in the form of a bank check #1400090269 dated September 8, 2009 to be placed in an Escrow Account for the Somers Library Boiler Replacement Project per memo dated October 7, 2009 from Guy L. Gagné, P. E., Town Engineer pending Town Attorney approval.

Execute 4  
Drainage  
Easement  
Agreements

18. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute four (4) Drainage Easement Agreements per memo dated September 23, 2009 from Guy L. Gagné, P.E., Town Engineer pending Town Attorney approval.

The Supervisor announced that the Town was having a Bulk Refuse Drop-off for Somers residents from Saturday October 17<sup>th</sup> to Saturday November 14<sup>th</sup>, details were on the Town's website.

Councilman Clinchy said that the County Shredder was going to be in Heritage Hills on October 25<sup>th</sup>. The Town Clerk said that may be just for Heritage Hills residents. The Supervisor said that she would inquire about that and get the information out to the residents.

Councilman Garrity reminded everyone that the Somers Volunteer Fire Department was having their Annual Pasta Nite Saturday October 17<sup>th</sup>.

Councilman Meyer said that it was their last meeting before Election Day and urged all to do their civic duty and vote.

The Supervisor said that she wanted to thank Councilman Meyer for his years of service to the Town Board. She said that for personal family reasons he stepped down.

Councilman Dieter requested that the Town Board enter into to an executive session to discuss real estate matters not to return.

OCTOBER 8, 2009 – REGULAR MEETING

Claims for the payment of all Town Bills in the amount of \$944,374.32 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 Supervisor Murphy, seconded by Councilman Clinchy, the meeting was adjourned to an executive session with regard to real estate matters at 9:00 PM not to return that evening.

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Town Clerk