

NOVEMBER 8, 2012 – REGULAR MEETING

Minutes of a regular meeting of the Town Board of the Town of Somers held on Thursday evening, November 8, 2012 at 7:15 PM at the Somers Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT: Supervisor Mary Beth Murphy
 Councilman Richard A. Benedict
 Councilman Richard G. Clinchy
 Councilman Frederick J. Morrissey

ABSENT: Councilman Thomas A. Garrity, Jr.

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 personnel.

Thereupon motion of Supervisor Murphy, seconded by Councilman Benedict, the meeting was adjourned to executive session with regard to personnel at 7:15 PM to return that evening.

7:40 PM – meeting reconvened

PUBLIC COMMENT:

Ms. Carol Sturtz, League of Women Voters, thanked the Supervisor and the Town Board for the superb job they did during the storm. She said that it was extremely helpful to receive messages to whatever assistance was available. She said that everyone appreciated them. Ms. Sturtz said that she was there that evening because the League of Women Voters supported affordable housing in Somers. She said that they felt that some good strides had been made and pointed out the locations in Somers where there was affordable housing. She continued that the League and the Town had made a commitment to affordable housing in Somers. Ms. Sturtz said that they agreed with the acquisition of the Angle Fly Preserve to make a good faith effort to build 224 units of affordable housing. She said that she felt that they had made a good faith effort although she thought it might be possible to build close to the 224 units. She said that there were discussions about building additional senior affordable units at the Mews that would double that population. Ms. Sturtz said then there was The Green, which would give Somers the opportunity for family affordable housing in Somers. She said that it would be helpful if the Board could find their way to approve the proposed site on Route 6. She said that she understood that there were a lot of questions about bringing in more housing and the effect on the Town. Ms. Sturtz said that issue that had always concerned her was with regard to the schools and because of that she did some research. She said that the Schools peaked in terms of enrollment in 2010 with 3,453 students, this year they had 3,366 students. She continued that the kindergarten peaked in 2004 and each year decreased. Ms. Sturtz said that this year the largest class Somers has had will graduate from High School. She said that she did not think that there was any reason to be concerned about the additional 10 to 20 additional students in the School District. She said that on behalf of the League she did hope that they did try to approve the project.

Thereupon motion of Supervisor Murphy, seconded by Councilman Clinchy, public comment session was declared closed.

The Supervisor said that the Westchester County Department of Health would be providing tetanus vaccinations of Friday, November 9, 2012 from 2:00 PM to 6:00 PM at the South Salem Fire House located on Route 35, South Salem. She thanked Councilman Morrissey for bringing this to the attention of the Town and stated that this was for anyone who wanted it. She said that if people had been working in the yard or the house or were an emergency worker during the recent events and had gotten a cut they should get the free tetanus shot. Councilman Morrissey said that the shot also contained a pertussis vaccination and any new parent, grandparent or being exposed to a newborn child this was a good shot to have. He said that this was a vaccine that was provided to Westchester County from the Center for Disease Control (CDC). The Supervisor said that the information with regard to this was available on the Town website.

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The Supervisor said that a small local effort to collect supplies for Sandy victims had grown into a real movement in Somers. She said that Paul Faust and Eric Zohar, two Somers residents who started the intuitive, they will be taking collections in the building next to the Somers Eye Care Center located on Route 202. She said that the collection was going to take place on Saturday, November 10, 2012 from 12:00 PM to 5:00PM. The Supervisor said that they had already made a few runs to Breezy Point, which as everyone knew it was hit really hard by Hurricane Sandy.

The Supervisor said that she wanted to quickly thank a few of the people who had been involved in all the restoration efforts over the last couple of weeks. She said that it had been a great cooperative effort in Somers. She said that they needed to be thankful that in Somers they did not have any storm related fatalities or injuries. The Supervisor said that other Towns had not been that fortunate. She said that as difficult as it had been with no power she was happy everyone was healthy and safe. She said that first she wanted to thank Chief Michael Driscoll for all that he had done, he took charge of situations a week before they happen and carried through to the end. The Supervisor said that she would like to thank Irwin Shirow, Fire Chief and Jody Leverage, Assistant Fire Chief; they had been terrific during the whole process. She said that they kept everything running smoothly, knew where to go for resources and they made sure that the resources got to where they needed to be. She said that the Town Board every one of them had been in the EOC every day, twice a day, on the phones with NYSEG and the County trying to get the resources that were needed and to have the power restored. The Supervisor said that the Town Board had been great and the Town should be very thankful that they had a Board that involved themselves as much as they had. She said that she needed to thank the Heritage Hills Society, particularly their Security Service, David Jacobson, Head of Heritage Hills Security and Richard Benedict, President of Heritage Hills Society. She said that the shelter was run basically with Heritage Hills' staff and volunteers; they had formed an Emergency Preparedness Committee last year and the people involved on that committee rose to the occasion and ran the shelter day and night. The Supervisor said that they were incredible, there were over 200 people in the shelter on multiple days and they kept it running smoothly. She said that County Legislator Michael Kaplowitz also was a great help to the Town. She said that all the Highway Department staff and the Highway Superintendent did an extraordinary job and assisted with coordinating with NYSEG once the crew arrived to get the roads cleared. The Supervisor said that the Parks and Recreation Staff did anything that was needed of them to do. She said that her own staff in her office, they never get thanked appropriately, they fielded thousands of telephone calls. She said that the Town Clerk and the Deputy Town Clerk were in the Town Hall while the offices were closed answering the telephone, helping residents and trying to keep people calm. The Supervisor said that the Nutrition Director made sure meals got out to people who needed them. She said the Salvation Army came in and fed over 200 people three meals a day, Father Key of Saint Luke's opened the church for meals and a warming center. She said that she was sure that she was forgetting a lot of people who gave a lot during the process. The Supervisor said that this was a really group effort and it showed a lot about Somers. She said that it made her proud to say that she played a role in the leadership of the Town. She said that she received a lot of thank you's personally from people but she wanted everyone to know that one person did not do everything it was a group effort.

Councilman Morrissey said that he wanted to point out the Saint Luke's and the Heritage Hills Shelters also served meals to the utility crews that worked in the Town. He said that these workers were housed an hour and a half away from here.

Councilman Clinchy said that several residents also went out to the crews with coffee and things of that nature. He said that he thought that the crews were being polite but also sincere when they said that Somers was one of the friendliest Towns that they had been to. He said that he saw a lot of the best in people in Town.

Approval
of the
minutes

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

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

RESOLVED, that the Town Board does hereby adopt the minutes of the September 6, 2012 Public Hearing regarding a Proposed Local Law increasing the term of the Supervisor from 2 years to 4 years; the September 6, 2012 Public Hearing regarding a Local Law to amend Chapter

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158 – No parking areas fire land at the Somers Commons Shopping Center and the September 6, 2012 Work Session/Regular Meeting.

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.

Home Repair Task Force

The Supervisor said that the next item on the agenda was with regard to a Home Repairs Task Force. She explained that this was something that the Assistant Building Inspector had raised as a discussion item and his thoughts on this was to get volunteers from the Community that were Engineers, Architects etc. to work in conjunction with possibly the Lions. She said that the Lions had been reaching out since the storm to help residents. The Supervisor said that the Assistant Building Inspector particularly was to serve the needs of the elderly, sick and people who had fallen on financial hard times. She said that this was not to do fund raising; it was to see if they could get people in to help with home repairs for those in need. She said that it was his thought that if the Town could act as a conduit and learn who was in need of assistance and direct the resources to them. The Supervisor said that they were going to have to think about insurance issues and how that was going to work in terms of the volunteers. She said that the Assistant Building Inspector wanted to be present that evening to discuss this with the Board but he was unable to. Councilman Morrissey said that he wanted to point out that the Lions did carry insurance for things of this nature. The Supervisor said that she wanted to put this item over for discussion at their next meeting. She said that she wanted to introduce this to everyone so that they could begin to formulate thoughts on how they could proceed with this. She said that if anyone was elderly, sick or unable to address damage issues from the recent storm the Lions had put a team of volunteers together to assist them and the information to access that resource was on the Town's website.

Buildings Conditions Report and Projections

The next item was the Buildings Conditions Report and Projections. The Supervisor said that this was something she also had been working on with the Assistant Building Inspector. She said that she did put together a draft form of the document. She explained that she tried to capture things that had been done on the building over the past ten to fifteen years and then she set up a cart for projections that the Board could fill in as time went by. The Supervisor said that she had hoped to visit each site with the Assistant Building Inspector to visualize what they were talking about but she was unable to do that over the last two weeks. She said that she was interested in the Board's thoughts with regard to this.

Councilman Morrissey said that this was kind of how they were going to go if they had hired Architects. He said that they were asking the public to volunteer and help the Town with the projects and this was their own way of using their resources to put out a five to six year maintenance plan of the properties that they owned. He said that the Assistant Building Inspector was the best person to go to the buildings and identify the issues. Councilman Morrissey said that he felt that this was a good start and he made some notes and gave them to the Supervisor and he would continue to do so.

Councilman Clinchy said that they should see if there was savings by doing the same projects on multiple buildings. The Supervisor agreed, such as if they do the gutters on one building they should do them on all of the buildings.

Councilman Benedict said that the key to any long range plan was that they had to assess the conditions of each building at the present time and then go out from there. The Supervisor said that was what she was trying to do.

The Supervisor said she took all of the information that was collected with regard to all of the buildings and put them together in one document so that the Board could look at it as a whole. She said that she was going to be meeting with the Assistant Building Inspector and she will continue to work on the document. She said that she would share it with the Board as they move ahead with it; if the Board saw things that they thought needed to be changed or addressed they should let her know.

Councilman Clinchy asked if there was a time frame or cost associated with the document. The Supervisor said that she had not identified costs although she tried to incorporate needs that had been identified by the Departments.

Councilman Benedict said that a long range plan was adjusted year to year by the budget. He said that they identified what they did that year and they knew what they wanted to do next year and that needed to be put into the budget for next year. He said that they had to do the grunt work to get that done. The Supervisor said that a lot of that work was already done.

The Supervisor said what they did in terms of capital projects funding was they looked at where they were at in terms of finances and saw what they could use. She said that was a good approach. Councilman Benedict said that they were receiving a lot of grants to do work that year. The Supervisor said that they should continue to do that in the future. Councilman Clinchy said that they received money from the sale of a house that they put into a fund; he asked if they were going to use all of that money. The Supervisor said that most of it was spent. She said that not all of the money was allocated for capital projects and they could allocate more next year if they chose to.

The
Green at
Somers

The Supervisor said that the next item was with regard to the Green at Somers. She asked Ms. Joanne Meder of F. P. Clark, the Town Planning Consultant to join the Board for the discussion. Mr. Rick Van Benschoten, property owner, said before he started he wanted to say that the Board and the Supervisor and the staff did a great job with the storm. Councilman Clinchy said that Mr. Van Benschoten offered some of his staff to help and they appreciated that. Mr. Van Benschoten said that everyone rallies together in times like that and he was happy to help.

Mr. Van Benschoten said that it was times like this when they think of the importance of housing and the lack thereof; Westchester County was the 5th tightest housing market in the Country at that time. He said that over the next few years it was going to get tighter based on the recent storms. He said that he wanted to reiterate some of the point that Ms. Whitehead made in her submission of October 24, 2012. Mr. Van Benschoten said before he turned this over to Ms. Whitehead there were two things that the Board had asked him to come up with at the last meeting. He said that the first was if the property would qualify for the County's requirement of the Housing Settlement and the County requirement for the Angle Fly Preserve. He said that he thought that the Board had a copy of Mr. Ed Burrow's letter clarifying the steps. Mr. Van Benschoten said that Ms. Whitehead also met with the Housing Action Council and they were very supportive of the project. He said that the second thing the Board had asked for was historical, looking back data of Retail Vacancy Rate. He said that they turned over every stone and looked into different sources; there was no reliable data that went back five to ten years. Mr. Van Benschoten said that what they could show was currently they had 194 square feet of vacant retail space, which was 13.7% and that was very high. He said that the conclusion that they would draw was that they were over retailled in this area.

Mr. Van Benschoten thanked the Board for listening; they were trying to be partners with the Planning Board and now with the Town Board. He said that they were listening to their suggestions and coming back to the Board with things that benefitted everyone. He continued that they knew they still had a lot of work to do even with the Board's blessing they had a lot of work to do with the Planning Board. Mr. Van Benschoten ensured the Board that this was going to be a beautiful project that they will be proud to have as part of the community.

Councilman Clinchy said that one thing that they had discussed with all of the projects was with regard to the effect on traffic. He asked if they were able to have any conversations about traffic. Ms. Linda Whitehead of McCullough, Goldberger & Staudt, LLP, representing the applicant, said that they had a full traffic study done and that had been submitted to the Planning Board last spring. She said that the study took into account the Planned Hamlet traffic and some of the other developments in the area. She said that it had been reviewed by F. P. Clark, the Town Planning Consultant, and they found it acceptable. Ms. Whitehead said that it was a very conservative traffic study; it was done based on a larger retail component. She explained the study briefly to the Board and pointed out some of the Department of Transportation's suggestions. Discussion ensued with regard to the traffic impacts and improvements that needed to be considered. Ms. Whitehead said that they would go back to the New York State Department of Transportation (DOT) with the Town's concerns. She said that F. P. Clark's Traffic Engineers worked on all of the projects on Route 6. She said that they would be involved in the discussions with the DOT on behalf of the Town, having the Town's support on this would be helpful. Ms. Whitehead said that they were not at that point yet, until they had a text amendment they did not know if they had a project. The Supervisor said that they needed to take

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into consideration the Carmel project as well. She said that F. P. Clark had reviewed that project and submitted comments on behalf of the Town. Ms. Whitehead said that she was not aware of what was being proposed for traffic improvements for that project, she was sure they were not final. She said that their traffic improvements were not going to help that projects traffic impact, they were going to have to do their own mitigation.

Ms. Whitehead congratulated the Town on doing a great job during the storm. She said that it sounded as if they did a great job with NYSEG because she was surprised to hear on the low number of people without power. She said that there were still a lot of people out of power down County.

Ms. Whitehead said that Mr. Van Benschoten tried to summarize for the Board some of the information that they provided. She said that they also provided them with some other information which included revised text for the proposed text amendment. She said that Ms. Meder pointed out some language cleanup and consistence type things that they thought needed to be done. Ms. Whitehead said that they realized that the problem with retail on this site was the fact they there was a large shopping center across the street. She said that there were a number of similar centers located on Route 6.

Councilman Garrity present at 8:30 PM.

Ms. Whitehead continued that the problem with retail on the site was not just the configuration of the site; it was the location of the site in an area that was over retailed. She pointed out additional changes she was proposing to the amendment.

Ms. Whitehead said that they did meet with the County and gave them an overview of the project; they presented a walk through and discussed the sewer briefly. She said that they were hopeful about the sewer in support of affordable housing. She said that the sewer capacity was there and was not an issue. Ms. Whitehead said that they did ask to have some three bedroom units added to the plan. She discussed the Town of Cortlandt's completed project and the applications that they received with the Town Board.

Ms. Whitehead stated that they were there that evening to discuss the proposed text amendment, and to answer any of the Board's questions and see if they could move forward.

The Supervisor said that she had concerns with regard to the sewer, there were some aggressive statements made by some neighboring municipalities with regard to the issue of the Sewer District. She said that she did not want to position the Town in a position that they were setting themselves up to be a defendant in a lawsuit with regard to a sewer issue. She said that she did have a meeting scheduled with the County and the neighboring municipalities to discuss some of the local issues and that needed to be rescheduled. Ms. Whitehead explained that Peekskill had been listed as an interested or involved agency in the SEQRA process. She said that she was not sure if there was a standing for a lawsuit. She said that since this was her client's property they would take the lead if there was any litigation brought with regard to the Sewer District. Ms. Whitehead said as they did know the Town had to be the party that petitioned the County to extend the County District. She said that they would take the lead on that and do all the foot work required. The Supervisor said that there needed to be some discussion with the involved parties to try to avoid any issues. Ms. Whitehead said that if the Supervisor was starting to have those discussions they would like to be a part of that. She said that everyone had to look at this as being supportive of affordable housing, the numbers were there that show that the plan had adequate excess capacity.

Councilman Clinchy asked what the next step was. The Supervisor said that she felt that the next step should be to have a conversation about the sewer issue with Peekskill and Cortlandt. Ms. Whitehead said from their standpoint they would like for the next step in the process would be to hold the public hearing for the proposed text amendment. She said that they would simultaneously go back to the Planning Board and move the text amendment forward so that they knew they had a project before they started spending time and money on the sewer.

Councilman Clinchy said that the Town Attorney had mentioned the possibility of revising the Zoning Code or having a different Code. He asked if he thought about that more or if he had a preference. The Town Attorney said that a Zoning text amendment was what was needed in this

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case. Councilman Clinchy asked if it was written in a way that did not overrule what the Town had already. The Town Attorney said that it did not as long as they included the language that Ms. Whitehead drafted. Councilman Clinchy asked if the Town Attorney had any objection to the way it was written. The Town Attorney said that he did not.

The Supervisor asked about SEQRA. Ms. Meder said that the Town Board could schedule the public hearing although they could not take action on the Zoning text amendment until the SEQRA requirements were satisfied. She explained that the Planning Board had circulated their intent to be Lead Agency. She said that if they separated the action of the Zoning text amendment from everything else then the Town Board could move ahead separately. She continued that if it was not pliable to do that, if it involved action that was integral to the project then the SEQRA process needed to be satisfied by the Planning Board as Lead Agency before the Town Board took action on a Local Law. Ms. Meder said that did not mean that they could not start the process. Ms. Whitehead said that she agreed with that and that was why she wanted them to schedule the public hearing. She said that the Planning Board, from what they had heard from the last few meetings with them, was very comfortable with the project. She said that they needed to give them a little more detail which they were wait to give the Planning Board until they knew if they were going ahead with the project. She said that those details could be to them for their December meeting. Ms. Whitehead said that they indicated that they were comfortable enough that they mitigated the impacts that were discussed earlier on and they were just about ready to make the Negative Declaration. She continued that they were also going to look at the Zoning text amendment and any potential impacts of that. She said that she agreed that the Town Board could schedule and hold the public hearing; they just could not actually take action on anything until the Planning Board finished SEQRA. The Supervisor asked what was the rush to schedule the public hearing, especially since there were sewer issues that were outstanding and needed to be explored. She said that the Board needed to know some of the potential outfalls. Ms. Whitehead asked if that related more to the Town Board's action on the Sewer District than on the text amendment. The Supervisor said that this was all a part of the same project. Ms. Whitehead said that the Board was asking her client to move forward and do things that were going to cost him money and they were trying to reach some comfort level that the Town Board was willing to consider amending the Zoning text. The Supervisor said that she understood that, although she did not think that the Town Board should be put into a position that would expose the Town to a potential significant lawsuit. Ms. Whitehead said adopting the text amendment did not open the Town up to litigation with regard to the sewer. She continued that it did not approve the project; it allowed the Planning Board to move forward with their review of the project. The Town Attorney asked Ms. Whitehead if the SEQRA process would include a review of how they were going to handle water and sewer. Ms. Whitehead said that it would. The Town Attorney asked that before the Planning Board finalized the SEQRA process they would have a good indication if expanding the County District was a possibility. Ms. Whitehead said from the Planning Board's standpoint the information was that the Sewer Plant had the capacity. The Town Attorney asked if the Planning Board was asking for a letter of mitigation from the other jurisdictions that the sewer cannot be expanded. Ms. Whitehead said that all the Planning Board needed was the capacity analysis. She said that they would not get a letter, the Board of Legislators cannot tell them that they would expand and there was a process that had to be gone through. Ms. Meder said that the Planning Board had spent a lot of time on this project and had devoted a lot of time on certain potential environmental impacts. She said that there was still a lot to be discussion under SEQRA and the Planning Board would be doing that once the Town Board passed the resolution. The Town Attorney said that if the Planning Board was not going to get a clear indication during the SEQRA review maybe to satisfy the Supervisor they should take the two paths at once. He continued that the Town Board could schedule the public hearing although that did not mean that they could not have a conversation with Peekskill and Cortlandt to make sure that path that they were going down was one that was suitable to them. Ms. Whitehead said that she understood the Board's fear of litigation although Peekskill and Cortlandt did not have to give any approvals, they had no jurisdiction. The Supervisor said that she knew that. She said that it was not a fear; she did not want to expose the Town to something it would have to defend at significant cost. Ms. Whitehead said that they had circulated the Lead Agency notice to the City of Peekskill and they had not comments in the SEQRA process. Councilman Clinchy asked if there were other instances that they had contacted an interested party with regard to an issue that may arise. Ms. Whitehead said that they could always go to a neighboring municipality and discuss an issue; she did not think that they should govern the decision. She said that the City of Peekskill spoke out against the Planned Hamlet and the Board of Legislators acted anyway and they did not take any action. The Town Attorney said that Ms.

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Whitehead was correct that the action would be by the Board of Legislators and they would be the primary defendant. He said that they would not be approving anything therefore, they could not be the primary defendant. The Supervisor said that they would be the applicant. The Town Attorney said that the Town would be named in the suit although that primary defendant would be who took the action. Councilman Benedict asked how the Town was protected from litigation on any project. The Town Attorney said that they were not, what they were designing to protect against was not something they approved with this project. Councilman Benedict asked if the Town Board held the public hearing they were not mandated to approve the amendment. The Town Attorney said that it did not, during the process the Board could decide not to go any further and give the petition back. Ms. Whitehead said that this was just the next step in the process. The Supervisor said that she did not want to see the Town exposed to a lawsuit unnecessarily when the conversation could be had and should be had in advance. Ms. Whitehead said that there was a lot of time to have those conversations. Mr. Van Benschoten said that he would have no issue writing a letter stating that they would cover the legal fees if there was litigation brought against the Town with regard to the expansion of the Sewer District.

Mr. Van Benschoten said that they did not mind paralleling the process. He said for him it was important to get the general sense that they were in this together and that the Board was comfortable with the text amendment. He said if they were comfortable they would like to have the public hearing scheduled so that they could take the next step. Mr. Van Benschoten said that he had a lot of work to do with the Planning Board and Ms. Meder had to get a lot of the SEQRA items completed.

The Supervisor asked if the estimated real property tax generation was based on the pilot or based on the estimate of assessed value. Mr. Ron Shulman answered that it was based on a pilot agreement between the residential and retail. The Supervisor asked if he had a sample pilot agreement that they would be anticipating also asking the Board to enter into. Ms. Whitehead said that they were happy to start those discussions although they had not gotten to that point. She continued that they were looking into the information. Mr. Shulman explained the estimate.

The Supervisor asked if there were going to be other things that the Town would be required to do, such as infrastructures the Town would be required to build, Inter-Municipal Agreements with the County. Ms. Whitehead said that Westchester County had found a different way to do their infrastructure funding programs using their own Public Works Department. She said that they were in the process of working that out so the Town does not have to be a party to that. The Supervisor asked if they were going to get infrastructure money to build what was needed and the Town did not have to do that. Ms. Whitehead said that was correct.

The Supervisor asked about Rec Fees, were they going to be approaching the Town Board looking for reductions. Ms. Whitehead said that there was a provision in the Town Code for some reduction for affordable units. She said that they would likely be asking them to consider a reduction based on the affordability. Councilman Clinchy asked if they knew what was going to be requested. Ms. Whitehead said that the financing required a lot of pro-formas on the total cost of construction in which that will be included. The Supervisor said that she wanted to know everything up front and not wait until the end.

The Town Attorney said that they needed to also include the Special Districts on top of their estimate. The Supervisor said that she did not like to get the information piecemeal; she would like to know from the beginning what was going to be asked of them. Ms. Whitehead said that they would work on some of the numbers for the Board.

Ms. Whitehead asked if they were going to schedule the public hearing. The Supervisor said that she felt that it was premature at that point to schedule the public hearing. She said that they still had some questions to be answered. Mr. Van Benschoten suggested that they schedule the public hearing and by next Monday or Tuesday they would get the information that was requested. Discussion ensued with regard to scheduling the public hearing and time constraints the applicant was working with. Councilman Morrissey said that collectively the Board was for the project and they would like to see them move ahead. He said that they were not quite there as far as the procedure went. He said that if they could get the requested information to the Board and then they could schedule the hearing at the next meeting if the Board was satisfied.

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Mr. Van Benschoten said that the only thing that he could ask was if the Board would parallel the process because of the time constrains. The Supervisor said that there was no reason that they could not go back to the Planning Board. Councilman Garrity said that he agreed with the Supervisor, he would rather they get the information that was needed and be comfortable before going into the public hearing.

2013
Town
Budget

The next item on the agenda was with regard to the Town Budget. The Supervisor said that she submitted the Tentative Budget in the middle of the hurricane. She said that they had the Departmental meeting and the entire Board had attended those meetings. She said that the Board had a good idea as to what was in the Tentative Budget. The Supervisor went over the highlights of the budget for the public.

The Supervisor said that the budget came in under the 2% tax cap at about 1.8% of a tax levy increase. She said that there were some things that had come up after the filing of the Tentative Budget and things that additional thought was given to that she would like to discuss with the Board. She said that the Code Red calls that went out to the residents were being appreciated. The Supervisor continued that they had been using more minutes than they originally anticipated. She would like to increase the Code Red service to the unlimited service for an additional \$4,000.00. She said that addition would increase the Info Tec budget line by \$3,930.00. Councilman Clinchy explained Code Red and the benefit of the service to the Town and urge anyone who was not sign up for it to enroll.

The Supervisor said in looking at the Highway Department line she felt that they should increase the Personnel Services line. She said that she had given a lot of thought to the discussions that were had and felt that they should make provisions for the potential of an additional employee for the Highway Department. She explained to do this they needed to make adjustments to the Personnel Service line and the Employee Benefits line. The Supervisor said that they could absorb this by making some adjustments to the revenue lines. She proposed increasing the Building Alteration Permit and Plumbing Permits lines by \$10,000.00 each and the Mortgage Tax line \$40,000.00. She pointed out where they were in the budget and the totals.

Councilman Benedict said that he thought that the MTA Payroll tax had been repealed. The Supervisor said that it was although it was on appeal. Councilman Benedict said than it was in the budget in case it was needed. The Supervisor said that was correct and it was her belief that they still need to pay it. She said that they did file for the refund through ADP to be refunded.

Councilman Clinchy said that he did see that the 1.5% increase to the Town Board salary had been removed as they requested. He said that he felt that the 1.5% increase should be applied to the Supervisor’s salary. He said that he thought that was fair and they needed to do a good job of taking care of all of the employees and show that the employees were appreciated. Councilman Clinchy said that he felt that applied to the Supervisor as well, it was a full time job that had not gotten an increase in several years. The other Board members agreed with Councilman Clinchy. The Supervisor said that 1.5% would change the salary to \$96,823.00.

The Supervisor said that the first order of business was to set the salaries.

2013
Town
Officials
Salary

The Supervisor said that first it was in order to set the salary for the Supervisor.

Thereupon motion of Councilman Benedict, seconded by Councilman Morrissey, it was,

RESOLVED, that pursuant to Section 108 of Town Law, the Town Board does hereby specify the proposed salary for the Supervisor to be included in the Notice of Public Hearing on the Preliminary Budget for the year 2013.

Supervisor \$96,823.00

Supervisor Murphy – Recused

The Supervisor said that next they needed to set the salary for the Town Board at \$12,182.00, the Town Clerk at \$69,277.00 and Highway Superintendent at \$98,074.00.

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Councilman Benedict said that they should increase the Supervisor’s salary to \$99,000.00; the Supervisor was the Chief Executive of the Town and should be the highest paid employee. The other Board members agreed with Councilman Benedict.

Thereupon motion of Councilman Morrissey, seconded by Councilman Benedict, it was

On motion of Councilman Morrissey to rescind the motion for salary for Supervisor and adjust the salary as follows:

RESOLVED, that pursuant to Section 108 of Town Law, the Town Board does hereby specify the proposed salary for the Supervisor to be included in the Notice of Public Hearing on the Preliminary Budget for the year 2013.

Supervisor	\$99,000.00
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Supervisor Murphy – Recused

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

RESOLVED, that pursuant to Section 108 of Town Law, the Town Board does hereby specify the proposed salaries to be included in the Notice of Public Hearing on the Preliminary Budget for the year 2013:

Town Board	\$12,182.00
Town Clerk	\$69,277.00
Superintendent of Highways	\$98,074.00

The Supervisor said that it was in order for the Board to adopt the Tentative Budget with the proposed changes as discussed as the Preliminary Budget.

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

RESOLVED, that the Town Board after review of the Tentative Budget, made changes, alterations and revisions as the Board deemed advisable, including modifications to personal services lines, which result in changes to Social Security Tax and Medicare Tax, adopted the Tentative Budget with changes therein to date as the Preliminary Budget of the Town of Somers for the year commencing 2013.

The Supervisor said that it was in order for the Board to schedule a public hearing with regard to the Preliminary Budget for December 6, 2012.

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

RESOLVED, that the Town Board does hereby schedule a public hearing to be held at the Town House, 335 Route 202, Somers, New York, on Thursday, December 6, 2012 at 7:30 P.M., to consider the year 2013 Preliminary Budget for the Town of Somers.

The Supervisor said that the budget would be on the Town website for anyone to review. She thanked the Board and appreciated their consideration with her salary. They all agreed that she was very deserving of the increase.

The Supervisor said that the next item on the agenda was to rescind two Resolutions with regard to the Windsor Farm Subdivision. She said that this item was being removed from the agenda; the matter had been addressed and corrected.

The next item was with regard to the Library. The Supervisor said that as they knew there was a hydraulic fuel spill at the Library and they were requesting reimbursement from the Insurance Reserve for materials and engineering expenses. She said that they also were requesting an increase in their budget line. She explained that they received a grant from Senator Ball and it was being used.

Adoption of the 2013 Preliminary Budget

Public Hearing for the 2013 Preliminary Budget

Windsor Farm Subdiv

Somers Library

NOVEMBER 8, 2012 – REGULAR MEETING

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

RESOLVED, that the Town Board does hereby authorize reimbursement in the amount of \$32,435.55 from Insurance Reserve for materials and engineering expenses relating to the hydraulic oil clean up per memo dated November 5, 2012 from Patricia Miller, Library Director.

Flexible Spending Account employees

The Supervisor said that the next item was to authorize the Supervisor to provide a Flexible Spending Account to employees. She explained that this did not cost the Town anything, it allowed employees to set aside their own salary into an account and it could be used for health related costs pre-taxed. She said that she would like authorization to enter into a contract with either PDSRMSCO or Benefit Resource pending further investigation by the Finance Director.

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute a Flexible Spending Account for employees with either PDSRMSCO or Benefit Resource pending further investigation by the Finance Director.

Budget for roof replacement projects

The next item was to adopt a budget for the roof replacement projects. The Supervisor said that this item was being removed from the agenda. This was already done at the last meeting.

PERSONNEL:

Current Vacancies:

- Somers Energy Environmental Committee
- Assessment Board of Review (1 – 5 year term to December 31, 2016)
- Assessment Board of Review (3 – 5 year term to September 30, 2017)
- Substance Abuse Council (1 – unexpired 3 year term to December 31, 2014)

Upcoming Vacancies:

- Library Board of Trustees (1 – 5 year term to December 31, 2017)
- Planning Board (1 – 7 year term to December 31, 2019)
- Zoning Board of Appeals (2 – 5 year term to December 31, 2017)

Consensus agenda

The Supervisor said that the next item was the consensus agenda. The Town Clerk said with regard to item number 1a that had already been moved in the meeting and asked with regard to item number 1b and 1c the dates for the public hearing be changed to December 13th meeting. The Supervisor said with regard to item number 2c, there was also an application for the tree lighting that should be added. She said that with regard to item number 7 she needed to clarify if one of the budget modifications was due to storm damage and if so make sure it was put in for FEMA reimbursement. Councilman Garrity said with regard to item number 14 the date should read November 13 – 16, 2012. The Supervisor said that she needed to add an item number 15 to the add-on agenda acknowledge completion of the Town Justice Court Audit by our Certified Public Accountants O’Connor Davies., LLP and item number 16 the authorization to hire a Teen Lounge Supervisor.

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

1a. Voted on in meeting

Schedule a Public Hearing to amend the Code of the Town of Somers Chapter 96 entitled FILMING

1b. RESOLVED, that the Town Board does hereby schedule a Public Hearing with regard to a Local Law to amend the Code of the Town of Somers Chapter 96 entitled FILMING for Thursday, December 13, 2012 at 7:30 P.M. at the Town House, 335 Route 202, Somers, New York.

Schedule a Public Hearing to amend the Code of the Town of Somers Chapter 26 Fire Prevention Bureau

1c. RESOLVED, that the Town Board does hereby schedule a Public Hearing with regard to a Local Law to amend the Code of the Town of Somers Chapter 26 Fire

NOVEMBER 8, 2012 – REGULAR MEETING

Prevention Bureau, Section 261E. Establishment; members; inspectors; meetings; promulgation of code; warning and appearance tickets, for Thursday, December 13, 2012 at 7:30 P.M. at the Town House, 335 Route 202, Somers, New York.

Execute the contract with Schindler Elevator Maintenance

2a. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute a contract with Schindler Elevator Maintenance located at the Somers Library in the amount of \$1,200.00 per memo dated October 12, 2012 from Patricia Miller, Library Director.

Execute an agreement with Workers' Compensation Insurance Premium Recovery Service

2b. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute an agreement with Workers' Compensation Insurance Premium Recovery Service.

Reserve temporary use of the Somers Town House Green for a permitted Holiday Displays

2c. RESOLVED, that the Town Board does hereby authorize granting permission to reserve temporary use of the Somers Town House Green for a permitted Holiday Display to Frederick J. Morrissey, Member of the Somers Lions Club for a period starting December 1, 2012 to January 8, 2012..

2c. RESOLVED, that the Town Board does hereby authorize granting permission to reserve temporary use of the Somers Town House Green for a permitted Holiday Display to Mitch Kaufman who submitted application for a period starting December 8, 2012 to January 8, 2013.

Execute an agreement with Madison Energy Corp. for removal of the old oil tank and installation of a new oil tank

2d. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute an agreement with Madison Energy Corp. for removal of the old oil tank and installation of a new oil tank at the Somers Police Station located at 100 Primrose Street (Route 139,) Somers, New York 10589 in the amount of \$3,950.00. The proposals received were as follows:

Madison Energy Corp.	\$3,950.00
Barrier Contracting, LLC	\$4,050.00
Northeast Environmental, Inc.	\$4,700.00

Execute an Upgrade of CodeRed to an Unlimited Plan

2e. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute an Upgrade of CodeRed to an Unlimited Plan in the amount of \$32,540.00.

Refer proposed donation of parcel

3. RESOLVED, that the Town Board does hereby refer proposed donation of parcel number 5.19-3-85 located at 3 Lakeshore Drive in Lincolndale to the Parks & Recreation Board, Highway Superintendent, Planning Board and Open Space Committee for review and comment.

Resignation of M. McPartlan-Hurson from the Substance Abuse Council

4a. RESOLVED, that the Town Board does hereby accept the resignation of Maureen McPartlan-Hurson from the Substance Abuse Council (term ending December 31, 2013,) effective October 11 2012 per email dated October 11, 2012 from Ms. McPartlan-Hurson.

Resignation of B. Martello, Intermediate Typist from the Substance Abuse Council

4b. RESOLVED, that the Town Board does hereby accept the resignation of Betty Martello, Intermediate Typist from the Substance Abuse Council effective October 18, 2012 per notice from Ms. Martello.

Resignation of L. Simpson from the Litter Task Force

4c. RESOLVED, that the Town Board does hereby accept the resignation of Linda Simpson from the Litter Task Force effective November 4, 2012 per email from Ms. Simpson.

Reappoint J. P. Paiva to the Architectural Review Board

5. RESOLVED, that the Town Board does hereby reappoint Joseph P. Paiva to the Architectural Review Board for a three (3) year term ending March 31, 2015.

Bockhaus Wetland Application

6. Item #6 Bockhaus Wetland Application – 16.06-2-46 was reviewed by the Town Board and they have no comment.

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Budget
modifications

7. RESOLVED that the Town Board does hereby authorize approval of the following Budget Modifications per memo dated October 25, 2012 from Mary Beth Murphy, Supervisor:

RESOLVED, that the Town Board does hereby authorize a budget modification to provide additional monies for budget line per memo dated October 22, 2012 from Hon. Michael J. McDermott:

From: 1110.4 – Town Justice – Contractual	\$2,500.00
To: 1110.11 – Town Justice – Overtime	\$2,500.00

RESOLVED, that the Town Board does hereby authorize a budget modification for reimbursement for repairs to Van Tassell Baseball Field fence due to tree damage per memo dated October 25, 2012 from Steven Ralston, Superintendent of Parks & Recreation:

From: A-911 – Insurance Reserve	\$1,345.00
To: A7110.4 – Parks – Contractual	\$1,345.00

RESOLVED, that the Town Board does hereby authorize a budget modification to increase budget for receipt of Entergy Grant per memo dated October 12, 2012 from Robert Kehoe, Finance Director:

From: 001-2130 – Revenue Grants	\$10,000.00
To: 001-1680.0420 – Info Tech – Code Red \$9,250.00	
001-1680.0400 – Info Tech – Contractual \$ 750.00	\$10,000.00

RESOLVED, that the Town Board does hereby authorize a budget modification to increase the 2012 budget line for Machinery & Equipment for the receipt of FEMA claim for Hurricane Irene per memo dated October 12, 2012 from Thomas E. Chiaverini, Superintendent of Highways.

From: 002.4589 – Federal Aid	\$41,995.00
To: 002-5130.0200 – Highway Machinery & Equipment	\$41,995.00

RESOLVED, that the Town Board does hereby authorize a budget modification to increase overtime due to additional elections in 2012 per memo dated November 2, 2012 from Kathleen R. Pacella, Town Clerk:

From: 1460.4 – Records Management – Contractual	\$1,000.00
To: 1450.11 – Elections – Overtime	\$1,000.00

RESOLVED, that the Town Board does hereby authorize a budget modification to increase budget lines funded by Bullet Aid from New York State per memo dated November 8, 2012 from Patricia Miller, Library Director:

INCREASE

Library – 005.7410.2 – Equipment	\$33,895.00	
Library – 005.9950 - Transfer to General Fund	\$16,105.00	\$50,000.00

INCREASE

Library – 005.3842 – State Aid-Member Item	\$50,000.00
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Accept
Erosion
Control
Bond

8. RESOLVED, that the Town Board does hereby authorize acceptance of the following Erosion Control Bond per memo dated October 11, 2012 from Wendy Getting, Senior Office Assistant:

- a. \$200.00 – Klimentov – Stormwater Management & Erosion & Sediment Control Bond – 38.17-2-4.

NOVEMBER 8, 2012 – REGULAR MEETING

Refund
Erosion
Control
Bonds

9. RESOLVED, that the Town Board does hereby authorize the refund of the following Erosion Control Bonds per memos from Steven Woelfle, Principal Engineering Technician:
- a. \$200.00 – Zubatkin (MacDonald) – Stormwater Management & Erosion & Sediment Control Bond – 28.06-1-21.
 - b. \$200.00 – Coughlin – Stormwater Management & Erosion & Sediment Control Bond – 38.05-2-21.
 - c. \$100.00 – Oskow-Schoenbrod – Wetland Permit – 26.19-1-4.
 - d. \$300.00 – Oskow-Schoenbrod – Steep Slopes/Erosion & Sediment Control Bond – 26.19-1-4.
 - e. \$300.00 – Stonewall Real Estate Builders, LLC – Steep Slopes/ESC/Tree Permit – 26.07-1-21.
 - f. \$500.00 – Stonewall Real Estate Builders, LLC/DiLeo – Wetland Permit – 26.07-1-21.

Transfer
Erosion
Control
Bonds

10. RESOLVED, that the Town Board does hereby the transfer of Erosion Control Bonds from Trust and Agency to the General Fund as listed in October 24, 2012 memo from Steven Woelfle, Principal Engineering Technician.

Cancellation
and removal of
uncollected tax
liens listed for
2008

11. RESOLVED, that the Town Board does hereby authorize cancellation and removal of uncollected tax liens listed for 2008 as listed on October 18, 2012 memo from Joan Ribaud, Receiver of Taxes.

Purchase of
Konica/Minolta
Bizhub 423
Copy machine

12. RESOLVED, that the Town Board does hereby authorize the purchase of Konica/Minolta Bizhub 423 Copy machine in the amount of \$4,489.93 per memo dated November 7, 2012 from Tammi Savva, Senior Office Assistant.

Bids for
Highway
Dept.

13. RESOLVED, that the Town Board does hereby authorize the Superintendent of Highways to go to bid (if necessary) for one (1) Retro Fit Plow Sander & Hydraulic Package for Military Surplus Vehicle per memo dated November 6, 2012 from Thomas E. Chiaverini, Superintendent of Highways.

Authorize
a Film
Permit

14. RESOLVED, that the Town Board does hereby authorize a Film Permit be issued to Paul Aresu Photography, 31 West 27th St., New York, NY 1001 for November 13 - 16, 2012 at Somers High School located at 120 Route 139 (Primrose St) Katonah, New York 10536 from 7:00 am to 3:00 pm.

Acknowledge
completion of
the Town
Justice Court
Audit

15. RESOLVED, that the Town Board does hereby acknowledge completion of the Town Justice Court Audit by our Certified Public Accountants O'Connor Davies., LLP in accordance with Section 2019-a of the Uniform Justice Court Act and does hereby submit copy of said report to the NYS Office of Court Administration.

Hire S.
Cianfaglione
as Teen
Lounge
Supervisor

16. RESOLVED, that the Town Board does hereby give permission to hire Scott Cianfaglione as Teen Lounge Supervisor at and hourly rate of \$15.00 per memo dated October 25, 2012 from Steven Ralston, Superintendent of Parks & Recreation.

The Supervisor said again she wanted to thank everyone in the community for all of their good will and acts of kindness that they had done for each other over the last two weeks.

The Supervisor welcomed Anthony Cirienco who will be joining the Board in January. She told him to feel free to contact any one of the Board members if he had any questions.

Councilman Morrissey urged anyone who has not signed up for Code Red to please do so. He said that there were daily updates and it was the best way to get the needed information.

Councilman Garrity said that everyone should come out on Sunday for the Veterans' Day Parade.

Councilman Garrity wished everyone a Happy Thanksgiving.

NOVEMBER 8, 2012 – REGULAR MEETING

The Supervisor said that they just heard that the Somers High School Football Team just won the Section Championship game. Councilman Garrity said that their next game will be Monday at 6:00 PM.

Claims for the payment of all Town Bills in the amount of \$803,658.75 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 Supervisor Murphy seconded by Councilman Garrity, the meeting was adjourned at 10:00 PM.

Kathleen R. Pacella
Town Clerk