

NOVEMBER 12, 2009 – REGULAR MEETING

Minutes of a regular meeting of the Town Board of the Town of Somers held on Thursday evening November 12, 2009 at 7:05 PM at the Town House 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT: Councilman Paul Z. Meyer, Jr.
 Councilman George R. Dieter
 Councilman Richard G. Clinchy
 Councilman Thomas A. Garrity, Jr.

ABSENT: Supervisor Mary Beth Murphy

Also present were Richard W. Nicholson, Deputy Supervisor, Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

Deputy Supervisor Nicholson said that it was in order for the Town Board to enter into an executive session with regard to litigation.

Thereupon motion of Councilman Meyer, seconded by Councilman Clinchy, the meeting was adjourned to an executive session with regard to litigation at 7:05 PM.

7:40 PM – meeting reconvened

Deputy Supervisor Nicholson introduced himself and explained that he was the Deputy Supervisor that was a voluntary position and usually he only signed a check or two while the Supervisor was away. He said that unfortunately she was a little under the weather and asked that he fill in for her. He said that he was only there to conduct the meeting, he had no voting authority and any comments that he may make would be as a public citizen.

The Deputy Supervisor said that the Supervisor asked that he announce that the money had been allocated for the \$400,000.00 Road Improvement Bond. He said that the Town had been authorized to go out to bid for the paving work.

PUBLIC COMMENT:

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

The Deputy 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 – hearing opened
7:55 PM – meeting reconvened

The Deputy Supervisor said that it was in order for the Board to open a public hearing with regard to a proposed stop sign at the northeast corner of Larch Drive and Tulip Road and the northeast corner of Evergreen Drive and Tulip Road.

7:55 PM – hearing opened
7:57 PM – meeting reconvened

The Deputy Supervisor said that it was in order for the Board to adopt a Local Law to include a stop sign at the northeast corner of Larch Drive and Tulip Road and the northeast corner of Evergreen Drive and Tulip Road.

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

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RESOLVED, that the Town Board does hereby adopt a Local Law to include stop sign at the northeast corner of Larch Drive and Tulip Road and the northeast corner of Evergreen Drive and Tulip Road as follows:

A Local Law to amend Chapter 158 entitled Vehicles and Traffic of the Town of Somers.

Be It Enacted by the Town Board of the Town of Somers as follows:

1. Article V Stop and Yield Intersections Section 158-19 Stop Intersections Designated is hereby amended to add the following:

HHH. Pursuant to Section 1660 Subdivision 1 of the Vehicle and Traffic Law, stop signs shall be installed at the following locations:

- (1) Northeast corner of Larch Drive and Tulip Road.
- (2) Northeast corner of Evergreen Drive and Tulip Road.

2. Effective Date: This Local Law shall be effective immediately upon filing of same with the Secretary of State of the State of New York.

ROLL CALL:	Councilman Richard G. Clinchy	AYE
	Councilman Thomas A. Garrity, Jr.	AYE
	Councilman George R. Dieter	AYE
	Councilman Paul Z. Meyer, Jr.	AYE
	Supervisor Mary Beth Murphy	ABSENT

Approval of the minutes

The next item on the agenda was the approval of the minutes. Councilman Meyer said that he would be abstaining from voting to approve the November Work Session minutes because he was not present at that meeting.

Thereupon motion of Councilman Garrity, seconded by Councilman Clinchy, it was,

RESOLVED, that the Town Board does hereby adopt the minutes of the October 8, 2009 Public Hearing with regard to the petition to extend the Amawalk-Shenorock Water District to include the Planned Hamlet Subdivision, the October 8, 2009 Regular Meeting, the November 5, 2009 Public Hearing with regard to the petition to extend the Amawalk-Shenorock Water District to include the Planned Hamlet Subdivision and the November 5, 2009 Special Meeting/Work Session.

Councilman Meyer abstained from voting on the November 5, 2009 Public Hearing with regard to the petition to extend the Amawalk-Shenorock Water District to include the Planned Hamlet Subdivision and the November 5, 2009 Special Meeting/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 that there was a correction to the September 10, 2009 Resolution with regard to an Erosion Control Bond Release for Petruzzi. She explained that it was stated as Section 16.09 Block 1 Lot 15 and it should have read Section 26.20 Block 2 Lot 22.

Discussion with Commissioners SVFD

The Deputy Supervisor said that the next item on the agenda was discussion with Claire McLean of the Somers Volunteer Fire Department. Commissioner Claire McLean, introduced herself to the Board as Commissioner, Financial Secretary and member of Somers Volunteer Fire Department. She said that she was present that evening along with fellow Commissioner Steven Pilla to ask the Board for some help. She explained that there was a need for Volunteer Firemen and the increase in call volume over the years. Commissioner McLean continued that anyone could join and if there was anyone that was interested they could stop by the Lincolnale Fire House. She said that the biggest problem that the Fire Department had with the members was retaining them because they

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would start out at High School age continue through College and many after College until it was time to move from their parents' home. She said that they were training people for other Fire Departments and urged the Town Board for affordable work force housing so that the children starting out could stay in Somers. A discussion ensued with Commissioners McLean and Pilla with regard to the training that was involved with becoming a Volunteer Fireman or EMT, their need for members and suggestions to reach out to new residents.

Stipulation of Agreement with the Teamsters Local 456

The next item on the agenda was to authorize the Supervisor to execute a Stipulation of Agreement with the Teamsters Local 456. Deputy Supervisor Nicholson said that this would extend the allowance of the Highway Employees to donate sick leave to a Co-Worker. He said that the Supervisor was considering extending this to the Town House Employees with regard to their vacation time.

Thereupon motion of Councilman Meyer, seconded by Councilman Dieter, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute Stipulation of Agreement with Teamsters IBT Local 456 allowing Teamster members to donate paid sick leave.

IMA with Westchester County for GIS Shared Services

The Deputy Supervisor said that the next item was an IMA with Westchester County for GIS Shared Services that was referred to the Town's Insurance Company for review of insurance requirements. He said that the Town's Insurance Agent sent back comments with respect to the County tightening up their language with regard to the basis that they could find unsatisfactory and give the Town a reason as to why they wanted their Insurance Certificate. Councilman Meyer asked if they should just send the County back the proposed language revisions. Deputy Supervisor Nicholson said that was a good idea.

Reaffirm prohibition of alcohol use on any Town property and park

The next item was to reaffirm prohibition of alcohol use on any Town property and park. Councilman Meyer said that he thought that there was discussion at the Risk Management Committee that people were providing Insurance Certificates. Councilman Dieter said that this was discussed by the Risk Management Committee and it was their recommendation to prohibit alcohol in the Park and the Parks and Recreation Board wanted to carve out a way to allow it but that was not feasible. He continued that the Town had an Open Container Law that prohibited alcohol to be consumed on Town owned property under any circumstances. Discussion ensued with regard to the Town's Open Container Regulation.

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

RESOLVED, that the Town Board does hereby reaffirm prohibiting the use of alcohol on any Town property or Town park

PERSONNEL:

Current Vacancies:

- Affordable Housing Board (3 – 2 year terms to July 11, 2011)
- SARAC (1 - 2 year terms to July 12, 2010)
- SARAC (4 - 2 year terms to July 12, 2011)
- Substance Abuse Council (1 – 3 year term to December 31, 2009)
- Substance Abuse Council (1 – 3 year term to December 31, 2010)
- Substance Abuse Council (1 – 3 year term to December 31, 2011)
- Zoning Board of Appeals (1 – unexpired 5 year term to December 31, 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)

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Zoning Board of Appeals (1 – 5 year term to December 31, 2014)

Appoint M. Sanz to Parks and Recreation Board

Deputy Supervisor Nicholson said that it was in order to appoint Michele Sanz to the Parks and Recreation Board.

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

RESOLVED, that the Town Board does hereby appoint Michele Sanz to the Parks and - Recreation Board to replace Darlene Larson for a three year term ending March 3, 2011.

The Deputy Supervisor said that the next item on the agenda was a review and comment with regard to the Mews at Baldwin Place. The Town Board had no comment.

Consensus agenda

The next item on the agenda was the consensus agenda. Councilman Meyer shared an article with the Board with regard to item number 2. Councilman Clinchy asked with regard to item number 16 if the State provided the Town with guidance with regard to selling of old scrap metal and Town equipment. The Town Attorney explained that some Towns had their own polices with regard to that and that he was not sure if Somers did. Councilman Meyer explained that process to Councilman Clinchy.

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

Reimbursement to Insurance Reserve

- 1. RESOLVED, that the Town Board does hereby authorize reimbursement of \$110.00 from A911 – Insurance Reserve to A7110.4 – Parks Contractual for reimbursement to the line for window repair to the Day Camp trailer due to a break during the camp season per memo dated October 29, 2009 from Steven Ralston, Superintendent of Parks & Recreation.

Submit Home Rule Request to NYS Legislature to create a Sustainable Energy Contractual Assessment Program

- 2. RESOLVED, that the Town Board does hereby approve the submission of a Home Rule Request to the New York State Legislature to create a Sustainable Energy Contractual Assessment Program as follows:

AN ACT PURSUANT TO SECTION 40 OF THE MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK IN RELATION TO THE CREATION OF THE TOWN OF SOMERS, NEW YORK SUSTAINABLE ENERGY CONTRACTUAL ASSESSMENT PROGRAM TO ASSIST HOMEOWNERS IN THE INSTALLATION OF DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES OR ENERGY EFFICIENCY IMPROVEMENTS.

The People of the State of New York do enact as follows:

- 1. **Section 1.** Pursuant to Section 40 of the Municipal Home Rule Law of the State of New York, a new law is added as follows:

Title: Town of Somers Sustainable Energy Contractual Assessment Program.

- 2. **Section 2:** Legislative Intent.
 - a. It is the intent of the Town of Somers to promote energy efficiency among residents and businesses within the Town, including the promotion of energy efficiency improvements and the utilization of renewable energy sources in existing buildings within the Town.
 - b. In order to address the issue of global climate change and greenhouse gas emissions in the Town of Somers, the Town has embarked upon an effort to reduce energy

demand from existing buildings so as to have the Town of Somers meet Statewide energy efficient goals. In order to assist residents and businesses in the Town of Somers make energy efficiency improvements more affordable and to promote the installation and utilization of such improvements, it is necessary to set forth a mechanism to finance the cost of such energy efficiency improvements.

- c. Pursuant thereto, this legislation will help lower energy costs, reduce greenhouse gas emissions and make energy efficiency and renewable energy improvements more affordable by offering a Sustainable Energy Contractual Assessment Program to assist homeowners and businesses within the Town of Somers in the installation of distributed generation renewable energy sources or energy efficiency improvements. Such Sustainable Energy Contractual Assessment Programs to be offered by the Town shall be repaid over a period of time through an annual assessment on the property of the borrower.

3. **Section 3:** Definitions.

- a. “Distributed Generation” shall mean the generation of energy close to the point of use.
 - b. “Renewable Energy Source” shall mean the production of energy through hydro, solar thermal, solar photo-voltaic, geothermal, biomass or other renewable energy resources.
- c. “Energy Efficiency Improvement” shall mean an installation or modification that is designed to reduce energy consumption in residential or commercial properties.

4. **Section 4:** Sustainable Energy Contractual Assessment Program.

- a. The Town of Somers, New York at its discretion shall offer a Sustainable Energy Contractual Assessment Program to homeowners and businesses for the financing of the installation of distributed generation renewable energy sources and/or energy efficiency improvements that will be permanently affixed to the property of the borrower.
- b. Such Sustainable Energy Contractual Assessment Programs shall only be available to owners of improved residential and commercial properties that are undergoing capital improvements or upgrades.
- c. The loans issued by the Town pursuant to this program, shall be repaid by the borrower through an assessment levied by the Town on the real property where the Sustainable Energy Contractual Assessment Program was applied. Such assessment shall be included annually within the Town real property tax bill which is transmitted to the borrower until repaid in full.
- d. The aggregate amount of each Sustainable Energy Contractual Assessment Program provided by the Town of Somers shall not exceed the actual cost of the equipment and materials necessary for the installation of distributed generation renewable energy sources or energy efficiency

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improvements, including the installation costs of such equipment.

- e. Assessments levied pursuant to this section, including any interest and penalties, shall constitute a lien upon a parcel of real property for which the Sustainable Energy Contractual Assessment Program is made.

5. **Section 5:** Necessity.

- a. The Town Board of Somers, New York located in Westchester County declares that this legislation is necessary for the immediate protection of the public interest and for the implementation of the energy efficiency and green house gas reduction plans of the Town of Somers and the State of New York.

6. **Section 6:** Effective Date.

This law shall take effect immediately.

VOTE:

Ayes	4	Clinchy, Garrity, Dieter, Meyer
Nays	0	
Absent	1	Murphy

Approve naming 3 roads in the Wooded Acres Subd

- 3. RESOLVED, that the Town Board does hereby approve naming three roads in the Wooded Acres Subdivision to be called Mayflower Lane, Ferdinand Drive **East** and Ferdinand Drive **North** as suggested in a memo dated November 4, 2009 from the Bureau of Fire Prevention.

Refer out proposed road names for the Angle Fly Preserve

- 4. RESOLVED, that the Town Board does hereby refer the following proposed road names for the Angle Fly Preserve to the Town Historian, Bureau of Fire Prevention, Planning Board, Assessor and Highway Superintendent per memo dated October 19, 2009 from the Somers Land Trust:
 - a. Reynolds Road – roadway leading to the condos
 - b. Tatham Lane – roadway leading to the Tatham House.

Waivers of the Application Processing Restrictive Law (APRL)

- 5a. RESOLVED, that the Town Board does hereby grant a waiver of the Application Processing Restrictive Law (APRL) pursuant to §67-5 of the Somers Town Code to Stephen Vieira of Vieira Holding Corp. for **six months** for property located at 1 Maple Avenue, Tax ID 16.16-1-12 in order to move forward with remediation for a violation of altering the existing grade by importing fill without obtaining the required site plan approval pursuant to Section 170-114 A. (1) per letter dated October 16, 2009.
- 5b. RESOLVED, that the Town Board does hereby grant a waiver of the Application Processing Restrictive Law (APRL) pursuant to §67-5 of the Somers Town Code to Charles Frick for **six months** for property located at 18 Lakeview Drive, Tax ID 16.09-3-19 in order for the Engineering Office to be in a position to review Mr. Frick’s application per letter dated October 10, 2009.
- 5c. RESOLVED, that the Town Board does hereby grant a waiver of the Application Processing Restrictive Law (APRL) pursuant to § 67-5 of the Somers Town Code to Donald W. Utschig for **six months** for property located at 128 Route 100, Tax ID 38.13-13-2-6 in order to move forward with remediation for an Environmental Violation of excavation within

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wetland regulated areas without obtaining a Wetland Permit or a Stormwater Management & Erosion & Sediment Control Permit issued by the Town Engineer per letter dated October 6, 2009.

Purchase of a passenger bus with wheel chair access

6. RESOLVED, that the Town Board does hereby authorize purchase of a passenger bus with wheel chair access from Don Brown Bus Sales for the Nutrition Program to be paid with grant funds per memo dated November 2, 2009 from Barbara Taberer, Nutrition Director.

Reimbursement to Insurance Reserve

7. RESOLVED, that the Town Board does hereby authorize reimbursement of \$385.00 from A911 – Insurance Reserve to DA5130.4 – Machinery Contractual for replacement of two front windshields on Highway Truck #10 and #35 per memo dated October 29, 2009 from Thomas E. Chiaverini, Superintendent of Highways.

Execute the 2010 Agreement with SPCA of Westchester

- 8a. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the 2010 Agreement with SPCA of Westchester at an annual cost of \$8,630.39 payable in monthly installments of \$719.20 with the December 2010 payment being \$719.19 commencing with the first payment in January of 2010.

Execute 2010 Contract with Spring Hill Kennels

- 8b. RESOLVED, that the Town Board does hereby authorize 2010 Contract with Spring Hill Kennels for the use of their impoundment facility at a rate of \$65.00 per month plus \$28.00 per dog per 24-hours boarding period per letter dated September 3, 2009 from Henry P. Tschorn, Spring Hill Kennels.

Budget Modification

- 9a. RESOLVED, that the Town Board does hereby authorize a budget modification to increase funding for unemployment insurance per memo dated October 14, 2009 from Joan E. Kachmarik, Director of Finance.

From: 001-599 – General Fund Balance – Unemployment Insurance
 To: 001-960 – Appropriations, 9050.8 – Unemployment Insurance
 \$818.26

- 9b. RESOLVED, that the Town Board does hereby authorize a budget modification to increase funding for unemployment insurance per memo dated October 14, 2009 from Joan E. Kachmarik, Director of Finance.

From: 002-599 – Highway Fund Balance – Unemployment Insurance
 To: 002-960 – Appropriations, 9050.8 – Unemployment Insurance
 \$2,523.41

- 9c. RESOLVED, that the Town Board does hereby authorize a budget modification to provide for overage of budget line per memo dated October 14, 2009 from Barbara J. Sherry, Confidential Secretary to the Supervisor.

From: 1670.21 – Print/Mail Equipment Copying
 To: 1670.41 – Print/Mail Mailing
 \$5,000.00

- 9d. RESOLVED, that the Town Board does hereby authorize a budget modification to monitor Petroleum Tank per memo dated October 21, 2009 from Thomas E. Chiaverini, Superintendent of Highways.

From: 5010.1 – Superintendent of Highways – Personal Services
 To: 5132.41 – Major Repairs for Veeder Root System
 \$4,000.00

- 9e. RESOLVED, that the Town Board does hereby authorize a budget modification to provide payment of out of title pay per memo dated October 7, 2009 from Thomas E. Chiaverini, Superintendent of Highways.

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From: 5140.1 – Personal Services – Brush
To: 5130.1 – Personal Services – Machinery \$15,000.00

9f. RESOLVED, that the Town Board does hereby authorize a budget modification to repair brakes per memo dated October 19, 2009 from Barbara Taberer, Nutrition Director.

From: 6775.406 – Fuel
To: 6775.405 – Repairs \$1,500.00

9g. RESOLVED, that the Town Board does hereby authorize a budget modification to provide additional funding for the third quarter of employment insurance billing per memo dated October 9, 2009 from Joan E. Kachmarik, Director of Finance.

From: 9010.8 – General Fund – Employee Benefits Retirement
To: 9050.8 – Employee Benefits – Unemployment Insurance \$6,199.74

9h. RESOLVED, that the Town Board does hereby authorize a budget modification to provide additional funding for the third quarter of employment insurance billing per memo dated October 9, 2009 from Joan E. Kachmarik, Director of Finance.

From: 9010.8 – Highway Fund – Employee Benefits Retirement
To: 9050.8 – Employee Benefits Unemployment Insurance \$311.08

Transfer to General Fund
10. RESOLVED, that the Town Board does hereby authorize transfer of \$4,250.00 to the General Fund from old street opening or driveway bonds per memo dated October 26, 2009 from Thomas E. Chiaverini, Superintendent of Highways.

Release Erosion Control Bonds
11. 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 Deodhari Wetland Permit – 26.12-2-20
b. \$100.00 Andriano & Sons Steep Slope Permit – 27.08-2-2.2
c. \$200.00 Horvath Stormwater & Erosion & Sediment Control –48.18-1-4
d. \$100.00 Mullaney Tree Preservation Permit – 5.19-1-57
e. \$100.00 Bird Tree Preservation Permit – 37.05-1-4
f. \$ 25.00 Wilson Tree Preservation Permit – 59.05-1-7
g. \$ 25.00 J. Greenburgh Tree Preservation Permit – 37.16-1-34
h. \$1,000.00 IBM c/o Grubb & Ellis Wetland Permit – 17.19-1-1
i. \$200.00 Pools of Perfections (Fanelli) Wetland/Steep Slopes –16.13-2-8
j. \$200.00 Leff Erosion and Sediment Control – 5.18-1-61

Accept Erosion Control Bonds
12. 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:
\$100.00 – Bulfamante Tree Preservation Permit – 18.05-1-22
\$2,610.00 Meichner Erosion Control Bond – 6.14-1-13
\$200.00 – Meadow Ridge Homes, Inc. – Stormwater Management & Erosion & Sediment Control Permit – 4.19-1-10

Accept Performance Bond
13. RESOLVED, that the Town Board does hereby authorize acceptance of \$35,750.00 Performance Bond issued by Western Surety Co. for the Heritage Hills Activity Building Emergency Generator, pending Town

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Attorney approval per memo dated October 28, 2009 from Guy L. Gagné, P. E., Town Engineer.

Accept dedication of additional portion of Young Road

14. RESOLVED, that the Town Board does hereby accept dedication of additional portion of Young Road,

WHEREAS, upon consideration of dedications and releases including but not limited to the offer of dedication set forth in the Manor Ridge Subdivision (Map #27586 dated 07/29/05), dedicating and releasing the necessary lands for highway purposes, it is

RESOLVED, that in accordance with the provisions of Section 171 of the Highway Law, consent be and the same hereby is given that the Superintendent of Highways of the Town of Somers make an ORDER accepting certain parcels for highway purposes, said parcels being described as follows:

Young Road (Extension)

Starting at approximately 900 feet northerly of the intersections with Elmer Galloway Road and continuing in a northerly direction a distance of approximately 595 feet and terminating in a cul-de-sac as shown on Filed Map #27856.

Authorize CSB Woodworking – work on Wright Reis Homestead

15. RESOLVED, that the Town Board does hereby authorize CSB Woodworking to replace the roof, lath and trim at both gable ends of the ice house at the Wright Reis Homestead in the amount of \$5,100.00 plus an additional \$850.00 for replacing the trim woodwork per memo dated November 4, 2009 from Terry Ariano, Historic Properties Administrator.

Permission to sell scrap metal and old equipment to the highest bidder

16. RESOLVED, that the Town Board does hereby give the Superintendent of Highways permission to sell scrap metal and old equipment to the highest bidder by means of Auction or Sealed Bids. If no one bids on the old equipment permission is hereby granted to sell to the highest scrap metal bidder per memo dated November 6, 2009 from Thomas E. Chiaverini, Superintendent of Highways.

Councilman Meyer said that the Board was holding the Annual Budget Hearings at the Library next week.

Deputy Supervisor Nicholson said that the dates for the Budget Hearings were November 17, 18 and 19th and the Board was also having a special meeting before the first Budget Hearing on November 17, 2009 at 6:00 PM at the Library.

Claims for the payment of all Town Bills in the amount of \$937,712.26 were presented and allowed for payment as shown on the Abstract of Audited Claims on file in the office of the Town Clerk.

Thereupon motion of Councilman Meyer, seconded by Councilman Clinchy, the meeting was adjourned at 8:45 PM.

Town Clerk