

NOVEMBER 17, 2009 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Tuesday evening, November 17, 2009 at 6:25 PM at the Somers Library, Route 139, 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 Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that this was a continuation of a public hearing with regard to the petition to extend the Amawalk-Shenorock Water District to include the Planned Hamlet Subdivision.

The Supervisor declared the hearing open and asked for comments from the public.

Ms. Linda Whitehead of McCullough, Goldberger & Staudt, LLP on behalf of Somers Realty Corp. owner of the Somers Realty Planned Hamlet project said based on the discussion from the last meeting she discussed the one issue with the Town Engineer with regard to dismantling the water tower when it was no longer needed and abandoned. She said that it was not going to be on Town property and it would be below grade, the Town Engineer said that his concern was if it was above grade and the determination could be made at the time that it was no longer needed at the full cost of the Home Owners Association. She said that she revised the agreement to reflect that.

The Town Attorney said that there were 2 points that had been brought to his attention. The first being that the dismantling of the water system should be bonded in case it was decided to be removed and the second point was that the completion of the water system should be tied to the issuance of the Building Permit not the Certificates of Occupancy. Ms. Whitehead said that she was not prepared to agree with either of those issues. She said that the idea was that the system needed to be up and running before someone occupies. Councilman Meyer said that he would like to see it tied to the Building Permit to protect the Home Owners and the Town. He explained that in the past there were some improvements that were supposed to be made and they were not made and the Town was strongarmed to grant Certificates of Occupancy so that the buyer could close on their sale without the agreed upon improvements being made. He said that the improvements should be done before the Building Permits were issued. Ms. Whitehead said that she did not agree with that, it was in the developer's interest to get everything done and be able to close on the property so that they had money coming in to the project. The Supervisor said that she had been on the receiving end with potential residents trying to close on properties and could not because things were not ready and she did not want to put herself back in that position. Ms. Whitehead asked what if the Builder could not fund the project because the Bank would not give them that much infrastructure money up front. Councilman Meyer said that they had the commercial aspect. Ms. Whitehead said that there was no funding that would come from the commercial aspect and the commercial was a very small portion of the project according to the Town's Code.

The Town Attorney asked the Town Engineer if he had an opinion on the bonding issue. The Town Engineer said that it would be reasonable for the Town to require a bond for the removal of the water tower. He said that as for the Certificate of Occupancy or the Building Permit, prior to the issuance of the Building Permit the road had to be installed to the binding layer, therefore it went hand in hand and it was understood that the infrastructure was part of that. Ms. Whitehead said that they need the Building Permit for the models. The Supervisor said that the Building Permit issue was very important and

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the Town Engineer explained why it made sense. Ms. Whitehead said that the Board was putting them in a very difficult position; none of these issues had come up before therefore, she was not prepared for them. Councilman Meyer said that they just received the new agreement that afternoon. Ms. Whitehead said that the changes that were made to the agreement were minimal. Councilman Meyer said that if Ms. Whitehead thought that the issues of the models was the critical issue maybe they could issue Building Permits for just 2 models. The Supervisor said that she did not suggest having models without road and infrastructure. Ms. Whitehead said that they had to have the approvals and to move forward.

Ms. Whitehead said that she did not know how the bonding would be figured or if the water system could even be bonded. Councilman Meyer said that it would be similar to how the dismantling of a cell tower was bonded. Ms. Whitehead said that they did not know if or what would be dismantled. The Supervisor said that they did not know what to expect. Ms. Whitehead said that they showed a rendering at the last meeting.

The Supervisor said that this was very important to the Town and the Board was having another meeting Thursday and this could be put over until then so that these issues could be addressed. Ms. Whitehead asked if they agreed to the 2 issues that evening would the Board give the approvals. The changes to the language were discussed with the Board, the Town Attorney and Ms. Whitehead.

There being no one else to be heard on motion of Supervisor Murphy, seconded by Councilman Meyer, the public hearing was declared closed at 7:00 PM.

Town Clerk