

NOVEMBER 18, 2010 – REGULAR MEETING

Minutes of a regular meeting of the Town Board of the Town of Somers held Thursday evening, November 18, 2010 at 6:45 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:       Supervisor       Mary Beth Murphy  
                  Councilman       Richard G. Clinchy  
                  Councilman       Frederick J. Morrissey  
                  Councilman       Thomas A. Garrity, Jr.

ABSENT:        Councilman       Harold R. Bolton

Also present were 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 and real estate matters.

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

7:40 PM – meeting reconvened

Councilman Bolton present at 7:40 PM

The Supervisor said that it was in order for the Board to continue a public hearing with regard to a proposed amendment to Section 170-13.2 Article IIA Conservation Zoning for the Mitchell Subdivision.

7:40 PM – hearing open  
7:43 PM – meeting reconvened

The Supervisor said that it was in order to adopt an Environment Assessment Form, a Negative Declaration and a Local Law amending Section 170-13.2 Article IIA Conservation Zoning for the Mitchell Subdivision.

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

RESOLVED, that the Town Board does hereby adopt an Environment Assessment Form, a Negative Declaration and a Local Law amending Section 170-13.2 Article IIA Conservation Zoning for the Mitchell Subdivision as follows:

A Local Law to amend Chapter 170 entitled Zoning of the Code of the Town of Somers.

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

1. Article IIIA entitled Conservation Zoning Section 170-13.2 Authorization is hereby amended to add the following:

D. Notwithstanding Paragraph C. above, this authorization shall be applicable to the parcel of land comprising 7.1 acres located west of Tomahawk Street, Route 118 and identified on the Tax Map of the Town of Somers as Sheet 16.09, Block 1, Lot 9.

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

NOVEMBER 18, 2010 – REGULAR MEETING

The Supervisor said that it was in order for the Board to open a public hearing with regard to a proposed three way stop sign at the intersection of Country Hollow Road and Corral Court and the placement of a stop sign at southwest corner of Country Hollow and Mahopac Avenue.

7:46 PM – hearing open  
8:22 PM – meeting reconvened

The Supervisor said that it was in order to adopt a Local Law with regard to a proposed three way stop sign at the intersection of Country Hollow Road and Corral Court and the placement of a stop sign at southwest corner of Country Hollow and Mahopac Avenue.

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

RESOLVED, that the Town Board does hereby adopt a Local Law to amend Chapter 158 of the Somers Town Code 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 entitled Stop and Yield Intersections Section 158-19 Stop Intersections Designated is hereby amended to add the following:

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

- 1. Three Way Stop Sign at the intersection of Country Hollow Road and Corral Court**
- 2. Southwest Corner of Country Hollow and Mahopac Avenue**

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.

The Supervisor said that she wanted to announce that the County was doing a photo session of properties in the Westchester; they were doing aerial photos as well trucks driving through. She said that the trucks would be marked Fasit and the people in the trucks will have identification as well. She said that this was the County's program to take pictures of all the properties for the Assessors; she said that this information would also be on the Town website.

PUBLIC COMMENT:

Ms. Linda Luciano, 10 Walker Drive, said that she had been watching the meetings on television over the last few months with regard to the Shenorock Park District and had sat idly by. She said that calling it a Park District concerned her because it was actually a beach and lake proposal. She continued that she was like a lot of other parents that would like to come and voice their concerns about this issue but do not or cannot. Ms. Luciano said that they had not been happy about the lies that they had been told and the deceitfulness of this entire process. She said that the reason she was there that evening was because she has had enough and after a recent incident that happened at the Middle School, Tuesday, she felt she needed to voice her concerns to the Town Board. She submitted to all of the Board members a copy of a survey that was pushed through the Middle School into the hands of just the Shenorock children. Ms. Luciano continued that she was told on Wednesday morning that this survey was part of a Science project that a group of boys were doing in 8<sup>th</sup> grade, the surveys were given out by a Science Teacher to children who only lived in Shenorock in the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grades. She said what made this worse was the teacher had the children pulled from their classes and called to the

## NOVEMBER 18, 2010 – REGULAR MEETING

front office where she had a list of the Shenorock children and was calling them by name and handing them the survey. She said that the Teacher was telling the children to fill out the survey and return it to her mailbox the next day. Ms. Luciano said the ironic part about this was that the same residents that the Town was missing from the Park District list were the same children that were not called for the survey. When the children said that they lived in Shenorock as well they were then handed a survey. She said that questions on the survey were more social questions than science questions and were UOA points of interest used in their campaign to create a Park District. She said that this situation was being brought to the Superintendent's Office and the Board of Education to be handled in a proper way, their children should never had been singled out for where they live or solicited in that way. Ms. Luciano said that it just proved by them doing this it was not just a science project but a political move by someone who was trying to push the Park District through. She said that this was an underhanded attempt to sway votes and involve children who were minors. She said that she was sure that all Board members would agree that School was a place for education, not for political gain. Ms. Luciano said that this whole situation was being dragged out and many people had been misinformed and confused by all of the misleading information that they were being told by the petitioners working for the UOA, just to obtain a yes vote. She said that Town residents were being petitioned for a Park District but it was not being explained in full, that it was also to clean part of the lake, create a beach and put in a building. She said that there were people who did not want a beach but signed yes anyway. Ms. Luciano said residents were also being told that the lake was extremely polluted and if they did not do something now they will have a bigger problem down the road, while the Engineering Firm the Town hired had explained at past meetings that there were no more pollutants in Lake Shenorock than there would be in any other neighborhood lake in any other area. She said that their Engineering Firm had also been given an incorrect range in assessed values in the Shenorock area which in turn had created an incorrect cost per household. She said that had been brought to the Town's attention and nothing had been done to correct it and make the list accurate. Ms. Luciano said that the people who were soliciting for the beach only gave them an option to sign yes only whereas the people who were petitioning against it gave them the option to vote either yes or no and were collecting only one signature per household. She said that this petition situation had gotten way out of hand and had not been done properly or fairly. She said prior to the Board voting on this Park District the public should be provided a list stating what criteria made the vote valid or invalid and which votes were counted as valid or invalid. Ms. Luciano said that the true cost per each household, in dollars, according to their own assessed value had never been divulged to the residents and absolutely should be. She continued that they had only been given an estimated median cost range. She said that Lake Lincolndale residents pay approximately \$325.00 per year and Lake Purdy residents pay approximately \$255.00 per year for their beaches and Clubhouses but it was an optional fee not a mandatory fee. Ms. Luciano said that they were making a mandatory tax increase for Shenorock residents; they were not the ones who let the lake go to the state it was now in. She asked why the mandatory rate would be so high when the optional rates were lower. She continued that according to the information that was provided; at her assessed value she would have to pay between \$354.00 and \$459.00 compared to the published figures of \$186.00 and \$241.00. Ms. Luciano said that a cost estimate should be published for all residents of Shenorock. She said that the Purdys and Lincolndale beaches use to be private, for their residents only, it was open up to Town wide residents because there were not enough people in their community joining. She said that the Town Board should look into if the Park District passed what would it do to the other lake communities, would they fail because of the loss of membership. Ms. Luciano said that a lake beach was not a want for the majority of the community and it had been said by the Board that this was brought to them by the community and it was what they wanted, but that was not what the majority of the community wanted. She said that the people who brought the proposal to them were a small part of the community. She said that at this point in the economy when the Town had trouble paving their roads and finding the funds for everyday expenses the Board should not be looking for the taxpayers of Shenorock to bare the burden of bailing out a private Homeowners Association. Ms. Luciano said that there were many people in the Town who were having trouble finding funds to pay for just their everyday expenses.

NOVEMBER 18, 2010 – REGULAR MEETING

Ms. Anita Krusko, 32 Ross Drive, said that she had a question about a mailing that she received from the UOA, it was a summation of the Informational Meeting and it had another piece traveling with it about parks and then there was a supporter of the UOA who listed his opinion about it. She said that her question was that it came to her with the return address as Supervisor Mary Beth Murphy. The Supervisor said that it did not come from her. Councilman Clinchy asked if the address was hand written. Ms. Krusko said that it was and it had a meter mailing and she was wondering if it was sent from someone's business or from the Town. The Supervisor said that it did not come from the Town, if something that came from her office it would be a printed envelope that would say, "Office of the Supervisor". Ms. Krusko said that was what she assumed although this was to let the Supervisor know. She said hearing about what was happening in the Middle School and as a person who started their professional life as a teacher she found this absolutely disgusting. She continued that what she thought may be happening with the situation with the Middle School was maybe what they were doing was looking to collect the survey again and once they received them they would take a look to see how many people were leaning towards the affirmative. Ms Krusko continued that then they could check it against their list of who had signed the petition which would give them an option of going out again to approach people.

Councilman Clinchy said that there was no name on the survey that was given at the School. Ms. Luciano said that there was not and that was what she complained about.

Councilman Bolton asked to see the envelope that Ms. Krusko received.

The Supervisor said that in terms of the Middle School, she heard that day that something like this had happened there and she appreciated Ms. Luciano coming in to explain exactly what happened. She said that Ms. Luciano pointed out that the School Board and the School Superintendent were looking into this, they respect that and they know how to reach her and the Board if they needed any information or assistance and that would certainly be provided. She said that they had to respect the School Board and the School Superintendent's role in this process.

Ms. Krusko said that all of this was kind of indicative of what they had seen going on through the whole petition process, information process etc. She said that she knew this was not on the agenda that evening and she knew that they had a meeting with Mr. DiSantos that day. She continued that Mr. DiSantos had a meeting with his supporters on Sunday. Ms. Krusko said that she wanted to put a few things out there so that they were ahead of the curve, she did not know if Mr. DiSantos wanted to hold this proposal and substitute something else. She asked if they knew what the count was. The Supervisor answered that they did not have an accurate number; they did look at some of the information that day, at this point in time she had asked the Assessor to go back and look through every property and check every bit of information. She said that it appeared to her internally, with their own calculations things were not correct, so she asked him to go back and look at every single piece of paper that he had received. She said that once that was completed everyone would be invited to review it to ensure that everyone thought it was accurate. Ms. Krusko said that she did not know if the Town Board had an opportunity to look at how the UOA handled the petition. She said that what they did was walk a street get the signatures they could, zerox that page, go out with the zerox page and try to fill the page. She said that they would have about 7 pages for one road. She said that if there was another proposal there needed to be an entirely different oversee by the Town. The Supervisor explained that the Town did not oversee the petition process and that may be part of the issue, that was a petition coming to the Town by the residents.

Councilman Bolton said that they would rather have a vote.

Ms. Krusko said that she understood the why; the problem was when there was so much in question as to how this was being handled. The Supervisor said that all of this was subject for discussion when it got to the Board and all of those things will have to be taken into consideration as it deliberates. She said that assuming that there was a valid petition or the Assessor says yes there was the right amount of signatures and they met the criteria.

NOVEMBER 18, 2010 – REGULAR MEETING

Ms. Krusko asked about the money that was advanced by the Town to the UOA. She said that they were told that the Town Board was asked by the UOA for the money for the site because people in the community filled a survey out stating they wanted a beach. The Supervisor said that the Town did not advance money to the UOA, the Town was asked through a less formal petition than the recently circulated one to create a Park District and to acquire the properties that were currently owned by the UOA. She said in order to take that action they needed to do their due diligence on the property and that was what they did. She said that what prompted this was a request signed by a lot of people to look at the properties and to investigate. The Supervisor continued that the initial investigation as they expected showed that further investigation was needed at 9 acres. She said that this was all valuable information, whether if the District was ever formed it was good for everyone to know what was going on at 9 acres.

Ms. Krusko said that she would like to see the original petition. The Supervisor said that she could come in to review it.

Ms. Krusko said that Mr. Barbagallo did get back to her with regard to where the money was for the Clean Flo System. She said that it was never called that, it was called landscaping and the possibility of using the Clean Flo came into the process kind of late and they were looking at some of the contingency money that was built into the “landscaping budget”. She said that as this kind of shifted the numbers had been revised and she thought it was going to be about \$80,000.00 to purchase the system.

Councilman Clinchy said that the proposal was so controversial, had many different aspects. He asked if Ms. Krusko was in favor of some of it or was it the whole thing. Ms. Krusko said that it was where you were personally and what your personal feelings were and she was also in the position of representing the group of people who were the Concerned Shenorock Residents. Councilman Clinchy asked if they changed the plan would it have to be whole new petition. The Town Attorney said that it would be a new petition. Ms. Krusko said that there was so much anger it may be better for everyone to go to their neutral corners and revisit this at some point down the line.

Ms. Krusko said that one of the Board members asked at what point the lake would turn into a swamp and the Engineer’s answer was that no one knew for sure, it could be a couple of decades. She said when you talk to longtime residents they talk about the Fire Department hosing the algae off the lake before the beach opened. She said that Mr. Barbagallo said that this needed to be done now because there was a momentum and if it was not done now it may never be done. Ms. Krusko said that she found that breathtaking, they should do the most expensive thing, the thing that may not be appropriate. She said that community was not offered the option of just cleaning the lake; they were told that the only way to remediate the lake was to build a beach. Councilman Clinchy said aside from the park proposal there were issues with the Clubhouse and the 9 acres property and the tax aspect of it for the UOA, that they were something that he agreed with; this required some examination. Ms. Krusko said that the Clubhouse was private property for the UOA to do with what they wanted, the 9 acres was an absolute non-starter.

Councilman Bolton said that the Board did not choose to do this, they were approached by the neighbors, and they were following a process that was outlined in New York State Law. He said that they have not gotten to the point where they know if there was a majority or not.

The Supervisor said as Ms. Krusko knew the petition did not include the Clubhouse or the 9 acres parcel. Ms. Krusko said that was now, it did at one point. The Supervisor said that originally all the parcels were included before the investigation was done. Ms. Krusko said that people were being told that if they did not sign the petition they would have 700 units of Affordable Housing on the 9 acres parcel. The Supervisor said how that could be when the 9 acres parcel was not included in the petition. Ms. Krusko said that was what they were telling people. The Supervisor said that she did not dispute that was true but those were issues that become part of the discussion if and when the petition was validated.

NOVEMBER 18, 2010 – REGULAR MEETING

Mr. Joseph Luciano, 10 Walker Drive, said he would like the Board's opinion about the survey going through the School. Councilman Bolton said that he would take it up with the School. He said that he would be upset if his child was singled out because of where they lived. He asked that Town Attorney about the voting process and asked why they were not able to vote. The Town Attorney said the way the law was structured was there were 2 ways to form a Special District either by a petition or the Town Board could vote without a petition subject to permissive referendum. He said that in this instance the petition was the vote, the people that were for it had the opportunity to sign the petition and that was the vote that counted. Mr. Luciano asked why the Town would not take the lake as a passive park and clean it under the Parks and Recreation Department. The Supervisor said initially when the community came to the Town about this that was not what was wanted, they wanted to keep it as a Community resource. Mr. Luciano said he was for making it a beach or to clean the lake and make it a passive park. The Supervisor said that the discussion was to make it a swimming facility. Councilman Garrity said that if the Town did it, it was open to the entire Town. Mr. Luciano asked why the Town did not look at it as a passive park; why did it have to be a beach. Councilman Bolton said because that was not the petition that came to the Board, they were not looking to do this. Mr. Luciano asked why the Town would not look into taking over the lake as a passive park. Councilman Morrissey asked on what grounds, it was owned by the UOA. Mr. Luciano said that they were having financial difficulties and the lake needed to be cleaned. He said that if the lake looked better and was clean it would be better for the community.

Ms. Wilhelmina Pesce, 20 Rogers Lane, said that she was appalled at what the UOA was doing and something needed to be done about it. She explained her experience while collecting signatures for the not in favor petition. She asked if they could stop the voting already. The Supervisor said that if she could she would.

Councilman Bolton suggested that they write letters to their State Senators and State Assemblymen and request that they get involved and have the law changed so that they could have a formal vote with regard to the Park District.

Mr. Luciano asked what the time limit was for the Board to shut this down. The Town Attorney explained that the petition had to be deemed either valid or invalid and the process that had to be met.

Mr. Anil Jambotkar, 1 Orchard Court, asked for the Board to please close this down, they could see what was going on and he had never seen so much tension. He asked if the residents of Shenorock were on the hook for the costs of the Engineer's service. The Supervisor said no, not unless the district was formed.

Mr. Luciano asked if any of the Board members lived in Shenorock, there were none. He said that the economy was bad all around the Country. He said that the Town Board was looking to keep the tax increase low and if this proposal went through they were looking at an increase for Shenorock residents of 30% to 50%. Mr. Luciano said that this was neither the time nor a good enough reason to increase their taxes, there were more important issues. He asked if the Board was discussing behind closed door discussing or prepared to move the Water Department. The Supervisor explained that there was some discussion at the budget hearing by one of the Councilmen about whether or not there could be some savings to the people in the Water District by moving them to another building but there was no formal discussion. Mr. Luciano said that he thought that was to make room for the project. The Board said that was not the case. Mr. Luciano said his biggest objection was the survey that went to the children. He said where does this stop. The Supervisor said the sooner the better, they all agreed on that but the Assessor was looking closely at it. She continued that they looked it over and there were clear errors and he has to go back and check every single person. Mr. Luciano said that they were being told lies to get the petition signed. He said that he would be all for a passive park.

Mr. Peter Walraven, 6 Granite Brook Drive, said that he was building a house in the Wooded Acres subdivision and he sent a letter to the Town Board and he asked them if they had read it. The Supervisor said that the Hopkins Development was on that

NOVEMBER 18, 2010 – REGULAR MEETING

evenings agenda because they were referring it out. She said that Mr. Walraven had made a good point and they were proposing 2 options to address the issue with regard to the road names.

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

Monthly reports

The Deputy Town Clerk presented monthly reports from the Town Clerk, Building Inspector, Parks and Recreation, Tax Receiver, Director of Finance, Planning and Engineering, Zoning, Plumbing and Bureau of Fire Prevention. She also announced that pursuant to Section 64, Subdivision 2a of the Alcoholic Beverage Control Law, Juan Jung Corporation, d/b/a Imperial Wok, 13 Heritage Hills, 202 Center and Angle Brook Dining Club, Main Clubhouse, 100 Route 202 were renewing their liquor licenses.

NYSEG Catch the Wind Program

The Supervisor said that the next item on the agenda was a letter from NYSEG with regard to the Catch the Wind Program. She said that in the past the Board had not been in favor of this because of the additional cost involved and State Law. It was decided that the Board was not in favor of this at this time.

NYSEG Small Business Energy Efficiency Program

The next item on the agenda was with regard to Small Business Energy Efficiency Program from NYSEG. The Supervisor explained that Frank and Jerry, who the Town retained through the grant that the Town received from NYSEERDA, brought NYSEG in to analyze all the different buildings and just by changing the light fixtures in all of the buildings the Town could see some very significant energy savings. She said that the payback period was 1 to 2 years depending on the Department. She said that she thought that they could find the resources to do this now.

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the agreement with NYSEG.

The Supervisor said as a point of interest, NYSEG was rolling this program out in the Northern part of the State initially and Frank and Jerry reached out to NYSEG and got them to come to Somers. She said that they were going to be one of the first Small Businesses in Westchester County to do this. She said that she wanted to encourage other Small Businesses to do this as well.

Councilman Clinchy said that NYSEERDA just sent out a pamphlet with regard to a program to find energy improvements in the home and there was a low cost Energy Audit and after the audit there were low interest loans to help finance the changes.

Councilman Clinchy said that there was going to be an Energy Expo on February 5, 2011 at Somers High from 9:00 AM – 4:00 PM. He said that there was a variety of information with regard to energy savings. The Supervisor said that there was a small entrance fee, there are going to be a lot of exhibitors present.

2011 Preliminary Budget

The Supervisor said that the next item was to adopt the 2011 Preliminary Budget. She said that the Board has had some personnel discussions. She recommended changes to the budget as a result of those discussions. The Supervisor said that in addition to those changes she had left out \$1,000.00 of the Energy Advisory Panel's contractual line and that should be added. She asked if the Board was comfortable with the proposed changes. The Board agreed that they were. Councilman Clinchy said that the Library budget was controversial and part of that was the WLSB was going up and they did not have control over that. He said that he would like to see an adjustment and also have a review of the personnel cost and the other costs within the Library. He said that he was endorsing the budget as it was.

Set salaries of Town Officials

The Supervisor said that it was in order to set the salaries of Town Officers.

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

NOVEMBER 18, 2010 – REGULAR MEETING

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 2011.

Supervisor Murphy – Recused.

Supervisor	\$95,392.00
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Thereupon motion of Supervisor Murphy, seconded by Councilman Clinchy, 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 2011:

Town Board	\$12,182.00
Town Clerk	\$65,945.00
Superintendent of Highways	\$93,357.00

Adopt the 2011 Preliminary Budget

The Supervisor said that after three nights of meetings with departments reviewing the Tentative Budget it was in order to adopt a Preliminary Budget for the year 2011 including the discussed changes from that evening.

Thereupon motion of Supervisor Murphy, seconded by Councilman Garrity, 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 2011.

Handheld meter readers for ASWD

The next item on the agenda was to authorize the purchase of handheld meter readers for the Amawalk-Shenorock Water District.

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

RESOLVED, that the Town Board does hereby authorize purchase of a Neptune CE5320B Handheld Data Collector including all necessary hardware and software at a price not to exceed of \$11,150.00 per memo dated November 15, 2010 from Adam Smith, Water Superintendent.

Purchase of Ford F250 Pickup Truck for ASWD

The Supervisor said that the next item on the agenda was to authorize the purchase of a Ford F250 Pickup Truck for the Amawalk-Shenorock Water District.

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

RESOLVED, that the Town Board does hereby authorize purchase of a 4x4 Ford Pick-Up Truck at a cost of \$27,500.00 from New York State Bid List per memo dated November 15, 2010 from Adam Smith, Water Superintendent.

Waiver of Chapter 67 for Somers Pointe Golf Club

The Supervisor said that the next item on the agenda was a waiver of Chapter 67 of the Town Code retroactive to October 8, 2010 for the Somers Pointe Golf Club, Inc. She said that it was her understating that they were currently before the Planning Board and working on the proposal.

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

NOVEMBER 18, 2010 – REGULAR MEETING

RESOLVED, that the Town Board does hereby authorize a request for waiver of Chapter 67 of the Town Code retroactive to October 8, 2010 for Somers Point Golf Club, Inc. per letter dated November 12, 2010 from Keane & Beane, P.C.

PERSONNEL:

Current Vacancies:

- Substance Abuse Council (1 – 3 year term to December 31, 2012)
- Substance Abuse Council (1 – 3 year term to December 31, 2013)

Upcoming Vacancies:

- Library Board of Trustees (1 – 5 year term to December 31, 2015)
- Planning Board (1 – 7 year term to December 31, 2017)
- Substance Abuse Council (2 - 3 year terms to December 31, 2013)
- Zoning Board of Appeals (1 – 5 year term to December 31, 2015)

Consensus Agenda

The next item was the consensus agenda. The Supervisor said that she wanted to note that she will be recused from item number 13 c and d. Councilman Clinchy said with regard to item number 14, they just had a test run on the Big Belly recycling system and that reduced the amount of trash, therefore there were fewer pickups. He continued that the Parks and Recreation Superintendent asked the Carting Company if that would reduce the fee and the answer was no because of the contract they currently had. He asked if there was a way if the Town were to acquire a Big Belly system they could include in the contract a provision for a reduced rate for fewer pickups. The Supervisor said that it was not just the pickups it was the weight of the garbage and that was not going to change. Councilman Clinchy asked if there was a way to build into the contract if there were less pickups the fee would be less. The Town Attorney said that the contract that the Town had with the Carting Company could be terminated with 10 days notice so if the Board felt that they were being overcharged they could renegotiate for a better contract. Councilman Bolton asked with regard to item number 18 would the increase be sufficient. The Supervisor said that increase would cover the cost.

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

Refer proposed changes of the Wireless Telecommunications Facilities Code and schedule the public hearing

1. RESOLVED, that the Town Board does hereby authorize referring the Wireless Telecommunications Facilities Code of the Town of Somers Proposed Changes to the Town Attorney, Town Planner, Planning Board and Zoning Board of Appeals and

DOES HEREBY, authorize the scheduling of a public hearing for Thursday, December 9, 2010.

Refer out proposed Road Name changes

2. RESOLVED, that the Town Board does hereby authorize referring to the Planning Board, Bureau of Fire Prevention and Somers Fire District for review and comment the following:

Wooded Acres – Proposed Road name change – Ferdinand Drive North change to Ferdinand Drive and Ferdinand Drive East to be changed to Mayflower Drive as one continuous road or alternatively changed to Lafayette Drive.

Refer proposed Amendment to Chapter 133 – Professional Fees and schedule the public hearing

3. RESOLVED, that the Town Board does hereby authorize referring the Proposed Amendment to Chapter 133 – Professional Fees to the Zoning Board of Appeals and Planning Board for review and comment and,

DOES HEREBY, authorize the scheduling of a public hearing for Thursday, December 9, 2010.

Renewal of 211 for S. Brewer, Deputy Tax Receiver

NOVEMBER 18, 2010 – REGULAR MEETING

4. RESOLVED, that the Town Board does hereby authorize application for 211 renewals for Stephanie Brewer, Deputy Receiver of Taxes and posting on the Town Web Site and New York State Job Bank Web Site per memo dated October 27, 2010 from Maria Tierney, Intermediate Clerk.

Appoint S. Roveto to Open Space Committee

5. RESOLVED, that the Town Board does hereby appoint Scott Roveto to the Open Space Committee to serve at the pleasure of the Town Board.

Acknowledge resign. of P. Risetto

6. RESOLVED, that the Town Board acknowledges with regret the resignation of Peter Risetto from the Architectural Review Board effective immediately and make appointment to the unexpired term ending March 31, 2010.

Sale of old and unused office

7. RESOLVED, that the Town Board does hereby authorize sale of old and unused office equipment per October memo dated October 27, 2010 from Barbara Sherry, Confidential Secretary to the Supervisor.

Budget Modifications

8. RESOLVED, that the Town Board does hereby authorize the following Budget Modifications as set forth in October 27, 2010 memo from Supervisor Mary Beth Murphy and revised November 5, 2010:

RESOLVED, that the Town Board does hereby authorize a budget modification to provide for additional funding for postage for Tax envelopes per memo dated October 21, 2010 from Joan E. Kachmarik, Director of Finance:

From: 1990.4 – General Fund – Contingency  
 To: 1670.41 – Print/Mail – Mailing \$4,400.00

RESOLVED, that the Town Board does hereby authorize a budget modification for the purchase of stamped envelopes for the January School Tax collection per memo dated October 21, 2010 from Joan Ribaud, Receiver of Taxes.

From: 1330.1 – Tax – Personal Services  
 To: 1330.4 – Tax – Contractual \$1,000.00

RESOLVED, that the Town Board does hereby authorize a budget modification to provide funding for additional overtime monies per memo dated October 15, 2010 from the Hon. Denis J. Timone.

From: 1110.4 – Court – Contractual  
 To: 1110.11 – Court – Overtime \$2,000.00

RESOLVED, that the Town Board does hereby authorize a budget modification to provide additional funding for Urstadt Biddle Properties, Inc. tax certiorari settlement (\$8,076.71) authorized by the Town Board on June 10, 2010 per memo dated October 15, 2010 from Joan E. Kachmarik, Director of Finance.

From: 1990.4 – General Fund – Contingency  
 To: 1930.4 – General Fund – Judgments & Claims – Refunds, Tax Payments \$4,200.00

RESOLVED, that the Town Board does hereby authorize a budget modification for purchased water charges that were higher than anticipated per memo dated October 18, 2010 from Adam Smith, Water Superintendent.

From: 049-8320.42 – Utilities & 049-8340.401 – Interfund Charges  
 To: 049-8320.41 – Purchase of Water \$2,400.00

NOVEMBER 18, 2010 – REGULAR MEETING

RESOLVED, that the Town Board does hereby authorize a budget modification to cover Personal Services until the end of the year per memo dated October 18, 2010 from Thomas E. Chiaverini, Superintendent of Highways.

From: Highway – 9050.8 – Unemployment Insurance (\$10,000.00) &  
Highway – 5142.1 – Snow – Personal Services (\$25,000.00)  
To: Highway – 5130.1 – Machinery – Personal Services \$35,000.00

RESOLVED, that the Town Board does hereby authorize a budget modification to provide additional funds for contractual line per memo dated November 8, 2010 from Michael W. Driscoll, Police Chief.

From: 3210.1 – Police Payroll  
To: 3120.4 – Police Contractual \$2,000.00

RESOLVED, that the Town Board does hereby authorize a budget modification for Water Transmission Interfund charges that were higher than anticipated per memo dated November 8, 2010 from Adam Smith, Water Superintendent.

From: 050 – 8310.0401 – Water Administration Interfund Charges  
To: 050 – 8340.0401 – Water Transmission Interfund Charges \$2,500.00

RESOLVED, that the Town Board does hereby authorize a budget modification to **Increase** the General Fund budget for NYS Justice Court Assistant Program Grant monies and **Increase** appropriations to permit authorized contractual expenditures per memo dated November 12, 2010 from Joan E. Kachmarik, Director of Finance.

From: 001-3090 – State Aid – Other, General  
To: 001-1110.4 – Town Justice – Contractual \$5,700.98

RESOLVED, that the Town Board does hereby authorize a budget modification to provide additional funding to the line to cover through the end of the year per memo dated November 16, 2010 from Steven Ralston, Superintendent of Parks & Recreation.

From: A7020.11 – Recreation Administration – Overtime  
To: A7110.11 – Parks – Overtime \$1,000.00

RESOLVED, that the Town Board does hereby authorize a budget modification to increase the project budget for additional costs in excess of the original budget of \$40,000.00 per memo dated November 16, 2010 from Joan E. Kachmarik, Director of Finance.

From: Capital Projects Fund – 057-2770 – Heritage Hills Emergency Generator, Misc. Income  
To: Capital Projects Fund – 057-3997-0400 – Heritage Hills Emergency Generator, Contractual \$5,197.50

RESOLVED, that the Town Board does hereby authorize a budget modification for Interfund charges that were higher than anticipated per memo dated October 13, 2010 from Adam Smith, Water Superintendent.

From: 049-8340.401 – Windsor Farms Interfund Charges  
To: 049-8310.401- Interfund Charges \$38.81

9. RESOLVED, that the Town Board does hereby authorize the acceptance of the following Erosion Control Bonds per memos from Wendy Getting, Senior Office Assistant:

Accept Erosion Control Bonds
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NOVEMBER 18, 2010 – REGULAR MEETING

- a. \$ 75.00 – 102 Moseman LLC- Tree Preservation Permit – 48.18-1-10
- b. \$200.00 – Coral Sea Pools Service Corp. –Stormwater Management & Erosion & Sediment Control – 58.12-1-16.

2012 – 2013  
Municipal  
Snow & Ice  
Agreement

- 10a. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the 2012 – 2013 Municipal Snow & Ice Agreement Extensions with the New York State Department of Transportation per letter dated October 20, 2010 from Chuck A. Walter, DOT.

2010 – 2011  
Justice Court  
Assistance  
Program Grant

- 10b. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the 2010 – 2011 Justice Court Assistance Program Grant in the amount up to \$30,000.00.

Return  
Erosion  
Control Bond

11. RESOLVED, that the Town Board does hereby authorize return of \$8,280.00 Erosion Control Bond in the form of a Certificate of Deposit Account #8330057209 dated February 9, 2001 for Section IV Subdivision submitted by Gus Boniello of CJC Associates, LP, per memo dated October 29, 2010 from Steven Woelfle, Principal Engineering Technician.

Schedule  
public hearing  
reg. new Dog  
Legislation

12. RESOLVED, that the Town Board does hereby authorize the scheduling of a public hearing for December 9, 2010 for new Dog Legislation.

Release  
Erosion  
Control Bonds

13. RESOLVED, that the Town Board does hereby authorize release of the following Erosion Control Bonds per memos from Steven Woelfle, Principal Engineering Technician:

- a. \$100.00 – Labarbara – Erosion Control Bond – 27.10-1-6
- b. \$500.00 – Lucaj – Erosion Control Bond – 27.11-2-13
- c. \$ 25.00 – Murphy Tree Preservation Permit – 38.09-2-28  
(Supervisor Murphy recused)
- d. \$200.00 – Murphy – Erosion & Sediment Control – 38.09-2-28  
(Supervisor Murphy recused)
- e. \$200.00 – DeSiena Wetland Permit – 27.08-2-2.1
- f. \$200.00 – Sonberg – Steep Slope Permit – 16.14-2-54

Execute Refuse  
Removal Contract  
extension

14. RESOLVED, that the Town Board does hereby authorize the Supervisor authorization to execute Refuse Removal Contract extension for one (1) year with Bria Carter for garbage and recycling pick-up at the Town House, Reis Park, Van Tassell, and Highway for a monthly amount of \$3,035.60.

Refer donation  
of land request

15. RESOLVED, that the Town Board does hereby refer request to donate land known as 5.19-3-71 and 5.19-3-70 located at Dogwood road to the Parks and Recreation Board and the Conservation Board for their review and comment.

One year renewal of  
remote access to the  
County Clerk's land  
records and legal  
files

16. RESOLVED, that the Town Board does hereby authorize one year renewal of Memorandum of Understanding with Westchester County for remote access to the County Clerk's land records and legal files per letter dated November 5, 2010 from Timothy C, Idoni, Westchester County Clerk.

Refer a request to  
convey paper road  
known as Lakeview  
Terrace

17. RESOLVED, that the Town Board does hereby refer a request to convey paper road known as Lakeview Terrace to Jeanne Maloney to the Town Planner, Planning Board, Principal Engineering Technician, Superintendent of Highways, Open Space Committee, Superintendent of Parks and Recreation, Parks and Recreation Board, and Conservation Board for review and comment.

Increase price  
of recycling  
bins

18. RESOLVED, that the Town Board does hereby authorize increase in sale price of recycling bins from \$7.50 each to \$8.00 each for residents and

NOVEMBER 18, 2010 – REGULAR MEETING

carters per memo dated November 16, 2010 from Barbara Sherry, Confidential Secretary to the Supervisor.

Resolution and letter of support for complaint and petition of the Willows to the PSC regarding water rate increase

19. BE IT RESOLVED, that the Town Board does hereby authorize a resolution and letter of support for complaint and petition of the Willows to the PSC regarding water rate increase

BE IT FURTHER RESOLVED, that the Town of Somers, hereby complains pursuant to NY CLS Pub Ser §89-i (2010) that the water rates of Aqua New York being charged to the residents of The Willows are unjust and unreasonable because the current rates were based on an undocumented and overstated rate base as revealed by a September 1, 2009 response to a FOIL request. The current rates were not set in accordance with procedural due process principles. The current rates do not conform to the merger order in Case 07-W-0711. The current rates were put into effect in violation of the Public Service Law and Commission precedent.

BE IT FURTHER RESOLVED, that the Town of Somers supports the Complaint and Petition, dated October 9, 2010, and the Petition for Rehearing, dated November 16, 2010, filed by The Willows Home Owners Association, Inc. with the Public Service Commission. The unanimous Town Board requests Supervisor Murphy to file this Resolution with the Secretary of the New York Public Service Commission, appropriate members of PSC Staff and on Aqua New York.

Approve two (2) applications for the Holiday Tree and Menorah

20. RESOLVED, that the Town Board does hereby accept and approve the two (2) applications for the Holiday Tree and Menorah to be displayed on the front lawn of the Town House.

Execute the 2011 Agreement with SPCA of Westchester

21. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the 2011 Agreement with SPCA of Westchester at an annual cost of \$8,630.39 payable in monthly installments of \$719.20 with the December 2011 payment being \$719.19 commencing with the first payment in January 2011.

Capital Project Budget for Butler Hill and Billingsley Fox Subdivision

22. RESOLVED, that the Town Board does hereby authorize the following Capital Project Budget for Butler Hill and Billingsley Fox Subdivision for completion of improvements by the Highway Department utilizing monies from the proceeds of a defaulted performance bond per memo dated November 17, 2010 from Joan E. Kachmarik, Director of Finance:

54-510	Estimated Revenues	\$17,185.51
	(54-2401 Interest Earnings)	\$ 1,960.00
	(54-2620 Forfeiture of Deposits)	\$15,225.51
54-960	Appropriations	\$17,185.51
	(54-5110-403 General Repairs, Contractual)	\$17,185.51

The Supervisor said it was in order to set the date for the Public Hearing on the Preliminary Budget.

Thereupon motion of Supervisor Murphy, seconded by Councilman Garrity, 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 2, 2010, at 7:30 p.m., to consider the year 2011 Preliminary Budget for the Town of Somers.

The Supervisor wished everyone a very Happy and Healthy Thanksgiving.

NOVEMBER 18, 2010 – REGULAR MEETING

Claims for the payment of all Town Bills were presented at the November 10, 2010 Special Meeting.

Thereupon motion of Councilman Garrity, seconded by Supervisor Murphy, the meeting was adjourned at 9:40 PM.

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Town Clerk