

DECEMBER 9, 2010 – REGULAR MEETING

Minutes of a regular meeting of the Town Board of the Town of Somers held on Thursday evening December 9, 2010 at 7:35 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

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

ABSENT:

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

The Pledge of Allegiance was led by Boy Scouts Joseph and Michael Cuiffo of Troop 376.

The Supervisor announced that on December 22nd there was going to be a Blood Drive at the Town House, from 3:00 PM to 8:00 PM. She explained that the young lady that sponsors the Drive receives scholarship money for doing this and the amount of the scholarship in related to the number of people who give blood.

The Supervisor said that it was in order for the Board to open a public hearing with regard to a proposed Local Law to amend Section 170-129.2 entitled Definitions; Word Usage, Section 170-129.6 entitled Special Use Permit, Section 170-105 entitled Notice of Public Hearing and Section 170-106 entitled Standard for Determination of the Code of the Town of Somers with regard to Wireless Telecommunications Facilities.

7:40 PM – hearing open
8:05 PM – meeting reconvened

The Supervisor said that it was in order to adopt a Short Environmental Assessment Form and a Negative Declaration with regard to the amendment of Section 170-129.2 entitled Definitions; Word Usage, Section 170-129.6 entitled Special Use Permit, Section 170-105 entitled Notice of Public Hearing and Section 170-106 entitled Standard for Determination of the Code of the Town of Somers with regard to Wireless Telecommunications Facilities.

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

RESOLVED, that the Town Board does hereby adopt a Short Environmental Assessment Form and a Negative Declaration with regard to the amendment of Section 170-129.2 entitled Definitions; Word Usage, Section 170-129.6 entitled Special Use Permit, Section 170-105 entitled Notice of Public Hearing and Section 170-106 entitled Standard for Determination of the Code of the Town of Somers with regard to Wireless Telecommunications Facilities.

The Supervisor said that it was in order to adopt a Local Law to amend Section 170-129.2 entitled Definitions; Word Usage, Section 170-129.6 entitled Special Use Permit, Section 170-105 entitled Notice of Public Hearing and Section 170-106 entitled Standard for Determination of the Code of the Town of Somers with regard to Wireless Telecommunications Facilities.

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

RESOLVED, that the Town Board does hereby authorize the adoption of amendments 170-129,-170-105 & 170-106 with the changes that have been discussed at the December

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9, 2010 Regular Meeting of the Town Board and also with the proviso as of the date of this Town Board meeting that any current application that has already been discussed at a meeting of the Zoning Board of Appeals will be grandfathered under the old legislation and not subject to the new legislation in any manner and any matter that has not yet been discussed at a meeting of the Zoning Board of Appeals will be subject to the new procedure as follows:

ARTICLE XXIIIA
Wireless Telecommunications Facilities

§170-129.2 Definitions; Word Usage

- A. As used in this article, the following terms shall have the following meanings unless the context shall otherwise require:

ANTENNA ARRAY -One or more rods, panels, discs, or similar devices used for the transmission and/or reception of radio frequency signals, which may include omnidirectional antennas (whip), directional antennas (panel) and parabolic antennas (dish).

APPROVING AUTHORITY- When a wireless or attached wireless telecommunications facility is permitted by special use permit, the approving authority for the special permit authority shall be the Somers Planning Board.

ATTACHED WIRELESS TELECOMMUNICATIONS FACILITY- An antenna array that is attached to or substantially enclosed within a building or structure (attachment structure), the primary use of which is not for wireless telecommunications, with any accompanying pole or device (attachment device) which attaches the antenna array to the building or structure; connection cables; and an equipment facility which may be located either inside or outside of the attachment structure.

BEST AVAILABLE TECHNOLOGY- The latest stage of development of processes, facilities and methods of operation practically suitable for the intended purpose to reduce the impact of a wireless or attached wireless telecommunications facility on an immediate neighborhood and the Town, including, but not limited to, camouflage techniques and stealth technology. It is anticipated that the processes, facilities and methods will change with time in light of technological advances and improvements in scientific knowledge and understanding. Economic considerations shall be included in assessing practical suitability, but shall not be the sole or overriding consideration, in the absence of extraordinary circumstances shown.

COLLOCATION- Mounting of equipment for wireless telecommunications on a support structure, building, or other existing structure by two or more wireless license holders or by one wireless license holder or by one wireless license holder for more than one type of communications technology.

DISTANCE REQUIREMENT- The horizontal distance from the base of a support structure.

EQUIPMENT FACILITY- Any structure, including but not limited to cabinets, shelters, a buildout of an existing structure, and pedestals, used to contain ancillary equipment as part of a wireless telecommunications facility or attached wireless telecommunications facility.

FCC-The Federal Communications Commission or any successor agency.

LINK BUDGET-The tabulation of all communications system gains, losses and wireless signal effects due to propagation. The purpose of a link budget is to enable a judgment to be made whether sufficient signal strength will exist to permit reliable wireless telecommunications service throughout a proposed cell.

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RADIO FREQUENCY OR RF DRIVE TEST- The process of erecting a temporary transmit antenna for the purpose of measuring path loss from a proposed base transceiver station or otherwise measuring the actual system performance, including the use of a temporary transmitter to provide a test signal to the elevated antenna while a vehicle equipped with measurement instruments is driven on roadways to collect samples of average signal strength at numerous locations in all areas of target coverage. Data is gathered for existing coverage and for each incremental height of the test antenna.

RESPONSIBLE PARTY OR PARTIES -The owner of the property on which a wireless or attached wireless telecommunications facility is located, the owner or lessee of a wireless or attached wireless telecommunications facility; any provider of a wireless telecommunications using a wireless or attached wireless telecommunications facility.

SETBACK- The shortest horizontal distance from a lot line to the part of a support structure or an equipment facility which is nearest to such lot line.

SUPPORT STRUCTURE -Any structure designed and constructed to support an antenna array, including self-supporting lattice towers, guy-wire support towers, or monopole towers.

WIRELESS TELECOMMUNICATIONS -Any personal wireless service as defined in the Federal Telecommunications Act of 1996, which includes Federal Communications Commission (FCC) licensed commercial wireless telecommunications services, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.

WIRELESS TELECOMMUNICATIONS FACILITY -An unstaffed facility for the transmission and/or reception of wireless telecommunications services, consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation, the primary use of which is for a wireless telecommunications facility.

B. In the event of a conflict between the definitions in this article and § 170-3 of this chapter, the definitions in this article shall apply to the provisions of this article.

§170-129.6 Special use permit.

A. A wireless telecommunications facility or an attached wireless telecommunications facility shall be permitted in the following zones and areas by special permit only:

- (1) Lower impact locations are as follows:
 - (a) Office and Light Industry (OLI) Districts;
 - (b) Office Business (OB-100) Districts;
 - (c) Corporate Research/Office (CRO) Districts;
 - (d) Designed Residential Development (DRD) Districts (utility parcel only);
 - (e) Lincoln Hall School property.
- (2) Higher impact locations are as follows:
 - (a) All zoning districts or areas not designated as lower impact areas, except areas or districts excluded under § 170-129.5L.

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- B. A special permit under this article may be granted by the Approving Authority in accordance with the applicable provisions of this article and pursuant to the procedures set forth in § 170-105, which includes the conduct of a public hearing. Compliance with each and every applicable requirement specified in this article and § 170-106 shall be required for the issuance of any special permit. The applicant shall bear the burden of demonstrating such compliance.
- C. The Approving Authority may approve, disapprove, or approve with modifications a special use permit for a wireless telecommunications facility or an attached wireless telecommunications facility under the applicable requirements of this article and the general special permit standards of § 170-106.
- D. Any special use permit granted shall be for a five-year term from the date of issuance. Special permits may be issued with reasonable conditions directly related to and incidental to the proposed special permit use.
- E. A bond satisfactory to the approving authority and the Town shall be required to ensure that the wireless or attached wireless telecommunications facility is removed in a timely manner upon abandonment.
- F. When the Approving Authority has issued a special use permit for a wireless or attached telecommunications facility, any change or modification of said facility shall be subject to the approval of the Approving Authority under the procedures for an original application unless the Approving Authority waives a public hearing upon a finding that the change or modification is minor.
- G. A special permit issued under this article may be renewed on application for additional five-year terms, provided the applicant shall demonstrate that the wireless or attached wireless telecommunications facility is and has been in compliance with the requirements of this article, the special permit and conditions. The applicant shall be required to pay the required application fee for such renewal. Such renewal application shall, at minimum, include a complete statement of the users of the facility, a complete description of all equipment at the facility, a report from an engineer specializing in structural engineering certifying that the facility is structurally safe based upon a personal inspection and appropriate testing, a complete description of all requests for collocation and the disposition of the requests, a report on any future plans for the construction of any new wireless or attached wireless telecommunications facility in the Town, and an abandonment bond for the ensuing five-year period. The Approving Authority may, in its discretion, waive a public hearing on the renewal application if it finds that the public hearing is unnecessary.
- H. A special permit issued for a wireless or attached wireless telecommunications facility under this article may be revoked by the Approving Authority after a hearing conducted upon at least 10 days' notice to the responsible parties and an opportunity to be heard. If at such hearing it shall be shown by substantial evidence that the facility constitutes a nuisance or that this article or the conditions of the special permit have been materially violated, the Approving Authority may revoke the special permit. Upon such revocation the facility shall be removed within 90 days. If not removed in 90 days, the Town may invoke the powers to secure removal of the facility as provided by the abandonment provisions of this article, including the recovery of cost.

§ 170-105. Notice of public hearing.

- A. Notice of public hearing with respect to an application for a special exception use permit shall be given by publication thereof in the official newspaper of the Town at least 10 days in advance of the hearing. Notice shall also be required to be given to all owners of property, including individual owners of condominiums, within a distance of 500 feet of the property lines of the applicant at least 10 days in advance of the hearing. Said notice shall be in such form as the Approving Authority shall prescribe and shall be sent to each owner within said distance by

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first class mail to the last known address on the tax records. [Amended 6-12-2008 by L.L. No. 4-2008]

- B. A copy of the notice of a public hearing shall be mailed at least 10 days prior to the public hearing date to the Clerk of any municipality where the land included within the site plan is within 500 feet of such municipality.
- C. Before the hearing, there shall be filed with the Approving Authority, affidavits of the publication and mailing of the notice of hearing. The expense of publishing and mailing any notice required by this chapter shall be paid for by the applicant.
- D. In its discretion, the Approving Authority may waive the time requirements aforesaid, provided that notice is given within the time provided for in § 267, Subdivision 5, of the Town Law. Failure of the Approving Authority to give notice as provided in this chapter shall not invalidate any determination of the Approving Authority.
- E. Notification sign. [Added 6-12-2008 by L.L. No. 4-2008]
 - (1) With respect to any application for special exception use permit, the applicant shall securely place and maintain a sign on the subject property at least 10 days prior to the date of the first Board of Appeals meeting (or first Planning Board meeting, when applicable) for which the application is on the agenda.
 - (2) Such signs shall be at least 30 inches in length by 20 inches in width, shall consist of sturdy and serviceable materials containing a white background with black legible letters of at least two inches in height and shall be placed in a location plainly visible from the most commonly traveled street or highway upon which the property fronts, but in no case more than 20 feet back from the front lot line. Such sign shall be at least six feet above the ground and shall read as follows: "A PROPOSED SPECIAL EXCEPTION USE PERMIT APPLICATION FOR THIS PROPERTY WILL BE DISCUSSED AT A [BOARD OF APPEALS OR PLANNING BOARD] MEETING ON (fill in date) AT (fill in time) AT THE SOMERS TOWN HOUSE. FOR INFORMATION CALL (914) 277-5582."
 - (3) The applicant shall update the sign and post it at least 10 days prior to the date of each subsequent meeting or public hearing. The word "meeting" shall be similarly updated to "public hearing" and the word "discussed" shall be similarly changed to "heard."
 - (4) At least seven days prior to the date of the meeting or hearing(s) for which the sign is posted, the applicant shall submit to the Approving Authority an affidavit stating to the fact and date of the posting.
 - (5) The applicant shall remove the sign within seven days after the date of the meeting or hearing for which the sign is posted.

§170-106. Standard for determination.

- A. The Approving Authority shall determine each application upon the merits only after public hearing and in conformity with the following standards and guides:
 - (1) The use shall be of such location, size and character that in general it will be in harmony with and conform to the appropriate and orderly general development of the Town and in particular the district specified in the appropriate section of Articles III through IX of this chapter.
 - (2) The Approving Authority's deliberation and determination shall be made in accordance with the Comprehensive Plan and design set forth in this

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chapter to lessen congestion in the streets; to secure freedom from fire, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate adequate provisions of transportation, water, sewage, schools and other public requirements, as one or more of such standards may apply to the particular use.

- (3) The deliberation and determination of the Approving Authority shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for the particular uses and with a view to conserving the values of buildings and property generally and to encourage the most appropriate use of land throughout the municipality.
 - (4) In addition to, but not in any way limiting the application of the general standards herein specified, the Approving Authority shall give substantial weight to an application when it is found as a fact that the maintenance of the particular use, together with the improvements incidental thereto, will not tend to depreciate the value of property in the neighborhood and particularly existing dwellings; and that the use will not conflict with or impede the trend of the type and character of dwelling or improvements under construction or reconstruction in the neighborhood and future dwellings or improvements to which the neighborhood may reasonably lend itself in the foreseeable future.
 - (5) The location, nature, extent and height of any building, structure, wall or fence and the nature and extent of any landscaping shall be such as will not hinder or discourage the appropriate development and use of property in the general neighborhood.
 - (6) The issuance of any permit hereunder for any public utility use in any residence district shall be subject to the finding that the establishment of the particular use in the subject location is necessary and convenient for the efficient operation of the particular utility system of which said use is a part or for the provision of service, by the utility, to the neighborhood in which the particular use is located.
 - (7) The Approving Authority shall also consider, upon an application for a special exception use permit, such standards as are established in Article XI through XV or any other provision of this chapter.
 - (8) In acting upon any application for a special exception use permit, the Approving Authority may impose any conditions that it deems necessary to promote the reasonable application of the foregoing standards, as well as any other general or special standards set forth in this chapter, and may deny any such application, but only in accordance therewith.
 - (9) Nothing in this section provided shall be deemed to authorize the Approving Authority to grant a special exception permit except in strict conformity with Articles XI through XV and XVII through XIX of this chapter, and no change in any use provisions of this chapter shall be permitted except as expressly provided in said Articles.[Added 4-29-1965]
- B. In granting the application, in whole or in part, the Approving Authority may attach thereto such conditions as the Approving Authority, in its discretion, may deem necessary to promote the health, safety and general welfare of the Town of Somers.
- C. The determination of the Approving Authority shall be in writing, signed by the Chairman or, in the absence of the Chairman, by such other member of the Approving Authority, may by resolution, determine and shall be filed with the Town Clerk within

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five days. A certified copy of the decision shall be mailed to each applicant within three days of such filing.

The Supervisor said that it was in order for the Board to open a public hearing with regard to a proposed amendment to Chapter 133 entitled Professional Fees of the Somers Town Code.

8:07 PM – hearing open
8:10 PM – meeting reconvened

The Supervisor said that it was in order to adopt a Short Environmental Assessment Form and Negative Declaration with regard to a proposed amendment to Chapter 133 entitled Professional Fess of the Somers Town Code.

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

RESOLVED, that the Town Board does hereby adopt a Short Environmental Assessment Form and the Negative Declaration with regard to a proposed amendment to Chapter 133 entitled Professional Fess of the Somers Town Code.

The Supervisor said that it was in order to adopt a Local Law to amend Chapter 133 entitled Professional Fees of the Somers Town Code.

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

RESOLVED, that the Town Board does hereby adopt a Local Law to amend Chapter 133 entitled Professional Fees of the Somers Town Code as follows:

A Local Law to amend
Chapter 133 entitled
Professional Fees of the Code
of the Town of Somers.

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

1. Section 133.1 Reference of applications to professionals; charges; reports is hereby renumbered Section 133.1A.

2. A new Section 133.1B Procedure is hereby added as follows:

A. At the time a referring Board requests the services of a professional employed or retained by the town in the review of an application presented to it, the referring Board shall adopt a scope of services to be performed and request a maximum fee proposal from the professional to whom the referral is made.

B. At the time the maximum fee proposal is received by the Board, it shall be placed on the Board's next available agenda for review with the applicant. In the event the Board and the applicant agree with the maximum fee proposal, the Board may approve same. In the event the Board and the applicant disagree with the maximum fee proposal, the Board may adjourn the matter until such time as the professional is available to attend a Board meeting to further review its fee proposal with the applicant or some other arrangement is agreed upon among all parties.

C. Until such time as the Board and the applicant are in agreement with the Scope of Services and fee proposal, an application shall not be deemed complete and all relevant time periods shall be tolled pending resolution of same.

D. In the event the professional submits a request to the Board to amend the Scope of Services or otherwise increase the maximum fee proposal, the procedure described above shall be utilized for its approval.

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E. An applicant may waive the above procedure and deposit funds to the escrow account pursuant to Section 130-2 here following.

3. 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 it was in order for the Board to open a public hearing with regard to a proposed amendment to Chapter 86 entitled Dogs of the Somers Town Code.

7:11 PM – hearing open
7:12 PM – meeting reconvened

The Supervisor said that it was in order to adopt a Local Law to amend Chapter 86 entitled Dogs of the Somers Town Code.

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

RESOLVED, that the Town Board does hereby adopt a Local Law to amend Chapter 86 entitled Dogs of the Somers Town Code as follows:

A Local Law to amend Chapter 86 entitled DOGS of the Code of the Town of Somers.

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

1. Article I entitled Control and Regulation is amended as follows:

Section 86.7C is amended in its entirety to read as follows:

Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by paying the impoundment fee set forth in Schedule A. Subsequent amendments to Schedule A may be by Town Board resolution.

2. Section 86.11 entitled Penalties for Offenses is hereby amended to read as follows:

An offense against this chapter shall be deemed a violation and a person convicted of such an offense shall be liable to a fine of \$50 for a first violation within a 12 month period; to a fine of \$100 for a second violation within a 12 month period; and to a fine of \$150 for a third or subsequent violation within a 12 month period.

3. Article II entitled Licensing is amended in its entirety to read as follows:

A. All dogs in the Town of Somers must be licensed with the Town Clerk by the age of 4 months and required to present a current Certificate of Rabies at the time of licensing or the renewal of an existing license. Applications shall be on forms prescribed by the Town Clerk.

B. All dog licenses will be for a period of one year and will expire at the end of the month one year from the date of issue.

C. Fees for licensing of dogs:

1. The fee for a spayed or neutered dog shall be as set forth in Schedule A attached hereto. Subsequent amendments to Schedule A may be by Town Board resolution. It shall include a state

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assessment pursuant to Section 110-3 of the New York State Agriculture and Markets Law, and additional funds for enumeration as provided for by Section 110-4(a) of the Agriculture and Markets Law.

2. The fee for an unspayed or unneutered dog shall be as set forth in Schedule A attached hereto. Subsequent amendments to Schedule A may be by Town Board resolution. It shall include a state assessment pursuant to Section 110-3 of the New York State Agriculture and Markets Law, and additional funds for enumeration as provided for by Section 110-4(a) of the Agriculture and Markets Law.
3. Enumeration Fee: When the Town Board determines the need for a dog enumeration, a fee set by the Town Board by resolution shall be assessed to all dogs found unlicensed or renewed at the time enumeration is conducted.
4. Purebred licenses: The Town of Somers will not be issuing purebred or kennel licenses. All dogs will be licensed individually as per the fee system stated above.
5. Service Dogs: The Town of Somers requires licenses for all dogs living or harbored within the Town, however, the Town fee for licensure of all types of service dogs listed in Section 110-2 of the Agriculture and Markets Law, including, but not limited to, guide dogs, service dogs, hearing dogs, and detection dogs is waived.
6. Shelters: The Town of Somers does not allow the licensing of dogs by a shelter. The shelter must notify the adoptive owners of their responsibility to license any dog which will be living within Somers with the Somers Town Clerk within 30 days of adoption. The shelter shall provide the Town Clerk with a list of adoptive owners monthly.

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

SCHEDULE A

FEES:

1. Spayed or neutered dog	\$ 15.00
2. Unspayed or unneutered dog	\$ 20.00
Replacement Tag fee	\$ 3.00
Impoundment Charges fee	\$ 30.00 per incident

PUBLIC COMMENT:

Ms. Fedora DeLucia, Planning Board Chairman, said that last night the Planning Board held their last meeting for the year 2010. She continued that as Chairman she wanted to tell the Board her observation of each Planning Board member and the Planning and Engineering Staff. She pointed out each member's asset and value to the Planning Board.

The Supervisor thanked Ms. DeLucia and said that she was very humble, but her service to the Town as Chair of the Planning Board was appreciated very much. She said that she was glad to hear that the Planning Board was working so well together.

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The Supervisor said that she would like to take this opportunity to thank all of the members of all of the different Boards who serve the Town. She said that the people who serve the Town did not do it for the glory; they do it because they cared about the Town and what happens to the Town.

The Supervisor said that Berk Goodman who had been a long time resident of the Town and had served on the Cable Committee here in Town and in Heritage Hills was moving from Somers. She said that he will be sorely missed; he was always a gentleman and always looking out for the best interest of the residents as well as the Town. She said that the Board sent him off with all of their very best wishes.

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

Approval
of the
minutes

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

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

RESOLVED, that the Town Board does hereby approve the September 2, 2010 Public Hearing regarding the Comcast Franchise Agreement; the September 2, 2010 Public Hearing regarding the Amendment to Special Exception Use Permit – Best Plumbing; the September 2, 2010 Work Session/Regular Meeting; the October 14, 2010 Public Hearing regarding the Amendment to Section 170-13.2 Article IIA Conservation Zoning; the October 14, 2010 Regular Meeting; the November 4, 2010 Work Session and the November 10, 2010 Special Meeting.

Monthly
reports

The 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.

Accept
construction
of kiosk on
Blue Trail and
installation of
rain barrels

The Supervisor said that the next item on the agenda was to accept with gratitude the construction of a kiosk on the blue trail and the installation of rain barrels next to the chicken coop at the Angle Fly Preserve. The Supervisor said that she was not sure who was donating this. Councilman Garrity said that he believed that this was a Scouts project. The Supervisor said that she would find out so that they could be publically thanked.

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

RESOLVED, that the Town Board does hereby accept with gratitude construction of one kiosk on the blue trail next to the barn and installation of rain barrels next to the chicken coop in the Angle Fly Preserve by Jamie Graff, Boy Scout Troop 228 as part of his Eagle Scout Project per memo dated December 2, 2010 from Steven Ralston, Superintendent of Parks and Recreation.

Authorize
going to bid
for the Parks
Concession
Contract

The next item was to authorize going to bid for the Parks Concession Contract. The Supervisor said that Councilman Bolton asked her earlier about background checks for the people who were not included in the submitted Bid Documents. She said that was not a policy that the Town had Townwide with regard to hiring. She said that she was in the process of looking into something for the Town.

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

RESOLVED, that the Town Board does hereby accept with gratitude construction of one kiosk on the blue trail next to the barn and installation of rain barrels next to the chicken coop in the Angle Fly Preserve by Jamie Graff, Boy Scout Troop 228 as part of his Eagle Scout Project per memo dated December 2, 2010 from Steven Ralston, Superintendent of Parks and Recreation.

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Completeness
review reg.
Alexan
Somers
Woods

The Supervisor said that the next item was to discuss the completeness review with regard to Alexan Somers Woods. She said that they had received the DEIS, which was very extensive.

Ms. Linda Whitehead of McCullough, Goldberger & Staudt, LLP on behalf of Alexan Somers Woods said that they received yesterday the proposals from the Consultants. She said that she did speak that day the F.P. Clark and explained that her client had some concerns with the proposals. She said that F. P. Clark had agreed to meet with them. Ms. Whitehead said that she also reached out to Joe Baragallo although she would not be able to speak with him until the next day. She said that they wanted to meet with both of the Consultants because their proposals seemed a bit high. She said that they wanted to ask the Board with regard to the proposals to put over authorizing any work until they had the opportunity to meet with the Consultants. The Supervisor said that was the best course of action her only concern was with the 45 days for completeness review. She said that she thought that they would need to extend the 45 day review time period to March 11th. Ms. Whitehead said that they were willing to extend it, both of the Town's Consultants proposals stated that they could complete the work in 4 to 5 weeks. She said that it was their hope to work this out and authorized to proceed at the January 6th meeting, hoping to be back on the agenda in February and start the 45 days once the Consultants were authorized to work. She continued that she did discuss that with them, she did not realize they were looking for March. The Supervisor said that she wanted to extend the 45 days to March because if the Consultants did not start work until after January 6th it would not be enough time. She said that with the Town Board meetings the 45 days would end after their February meetings. Ms. Whitehead asked if it could be done at the March Work Session. The Supervisor said that she suggested March 11th because that was a Friday and if anything happened they would be covered. She said that they would most likely be placed on the March 3rd agenda and then vote on it on March 10th.

The Supervisor said for the record the 45 day time frame had been extended until March 11th. Ms. Whitehead stated that they would be back on January 6th hopefully with an agreement with both Consultants.

resolution to
NYS DOT
supporting the
widening of
Rte 6 between
Rte 6N, Rte
118 and the
Union Place
project

The next item on the agenda was to discuss a letter from Putnam County Economic Council requesting a resolution to the New York State Department of Transportation supporting the widening of Route 6 between Route 6N, Route 118 and the Union Place project. The Supervisor explained that Union Place was a project in Putnam County that was located on Route 6 and Route 118. She said that she had spoken to the developer of the project and asked for a meeting with regard to the traffic issue, which was the biggest issue for the Town of Somers. She said that meeting was scheduled for next week with the Supervisor of the Town of Carmel, their Engineers and herself. The Supervisor asked for the Town Board's permission to ask Joe Barbagallo to attend the meeting as well. The Board had no objections. Councilman Clinchy asked if they were asking of the Town of Somers' endorsement of the project. The Supervisor said not of their project because they were outside of the Town. She explained that they could comment on the project but they only have to take that comment into consideration. She said that their comment period does expire January 1st, but she could draft a letter and address some concerns the Board may have for the Board's consideration. Discussion ensued with regard to the Town Board's concerns with regard to the traffic. The Supervisor said that they would hold off on the resolution of support until after the meeting.

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 Supervisor said that the next item on the agenda was the consensus agenda. Councilman Clinchy asked with regard to item number 9 what the application was. The Supervisor explained that it was a grant application to the New York State Facilities Corp. for stormwater and planning in connection with Lake Shenorock to try to start the project outside of the formation of the Park District. She said that if the could get a grant it was a potential \$50,000.00 and they would be using the work that the Town had already done as a match. Discussion ensued with regard to the Clean Flow System. Ms. Anita Krusko asked if the grant was in conjunction with the East of Hudson initiative or was this separate. The Supervisor said that it was separate from the East of Hudson funding. She said that with regard to the East of Hudson funding, the Town had also received authorization from the Northern Westchester Water Shed Coalition and had since finished the scope with the DEP and the County for a study of the Shenorock area and septic and sewers issues. She continued that was a separate issue, it was \$100,000.00, which was currently getting processed. Mr. Krusko addressed the Board with regard to the Clean Flow system. Further discussion ensued with regard to the Clean Flow System and the grant. Ms. Krusko asked with regard to item number 1 if that was something that was just on the agenda or was the Board going to state that the petition was declared invalid. The Supervisor said that there was a resolution that was prepared by the Town Attorney that was on the consensus agenda. She said that it was discussed at last week’s work session; she read the resolution to the public.

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

Declare Shenorock Park District Petition process flawed

1. RESOLUTION DECLARING SHENOROCK PARK DISTRICT PETITION PROCESS FLAWED:

RESOLVED, that the Town Board does hereby declare the Petition for the Shenorock Park Improvement District submitted to the Town Clerk on September 7, 2010, flawed due to various intervening factors and that the Town Board is agreeable to receiving a placement petition for its consideration on the following bases:

1. The petition will be available for signature by owners and resident owners of properties within the proposed district only in the Town Clerk’s Office during normal business hours and at other times and dates as determined by the Town Board for a consecutive period of 60 days.
2. Proposed petitioners shall submit proof of identity to the Town Clerk and all signatures shall be notarized.
3. Petitioners shall not be permitted to remove their names from the petition unless they cease to be an owner or resident owner of property within the proposed boundaries of the district.
4. The Map, Plan and Report, as may be revised, shall be available for review by petitioners in the Town Clerk’s office together with proposed initial assessments for each respective property in the proposed district.
5. Upon the closure of the petition process, the executed petition shall be transferred to the Assessor for review and determination of sufficiency and subsequent report to the Town Board at the earliest possible date.

Budget Modifications

2. RESOLVED, that the Town Board does hereby authorize the following Budget Modifications as set forth in November 24, 2010 memo from Supervisor Mary Beth Murphy and revised December 6, 2010:

RESOLVED, that the Town Board does hereby authorize a budget modification to provide for overtime hours higher than anticipated per memo dated November 18, 2010 from Adam Smith, Water Superintendent:

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From: 051-8310.1 – ASWD Salaries
To: 051-8310.11 – Overtime \$ 600.00

RESOLVED, that the Town Board does hereby authorize a budget modification to provide for overage for repairs and gas per memo dated November 22, 2010 from Michael W. Driscoll, FOIC, Somers Police:

From: 001-3120.1 – Police Personnel Services
To: 001-3120.4 – Police Contractual \$13,000.00

RESOLVED, that the Town Board does hereby authorize a budget modification to provide funding to reimburse the Library Fund for building expenses (ejector pump and water cooler) authorized by the Town Board on 9/2/10, and to provide funding for 50% of the project costs in excess of the NYS grant of \$30,000. Heritage Hills Society LTD remitted their check for \$7,598.75 to the Town per memo dated November 29, 2010 from Joan E. Kachmarik, Director of Finance:

From: 001-1990.4 – Contingency
To: 001-9901 – Transfer to Library Fund - \$1,946.14
001-9950.9 – Transfer to Capital Projects Fund – Heritage Hills
Generator - \$7,598.75
\$9,544.89

RESOLVED, that the Town Board does hereby authorize a budget modification to provide funding for new phone system per memo dated November 29, 2010 from Thomas E. Chiaverini, Superintendent of Highways:

From: 5132.405 – Maintenance
To: 5132.402 – Telephone \$3,405.00

RESOLVED, that the Town Board does hereby authorize a budget modification to provide coverage for overage in the Town Clerk Contractual Budget Line per memo dated December 8, 2010 from Kathleen R. Pacella, Town Clerk:

From: A1460.43 – Records Management – Micro Film \$182.99
A1460.44 – Records Management – Supplies \$115.68
A4420.4 – Vital Statistics – Contractual \$ 68.00
To: A1410.4 – Town Clerk – Contractual \$366.67

Execute contract with RDM Computer Consultants, Inc.

3a. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute Annual Service Agreement for 2011 with RDM Computer Consultants, Inc. for a period from January 1, 2011 to December 31, 2011, per letter dated August 10, 2010 from Raymond Maggi.

Execute contract of Retention for legal services

3b. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute contract for Retention for Fiscal Year 2011 with Bond, Schoeneck & King, PLLC for legal services per letter dated November 1, 2010 from Ernest R. Stolzer, Esq.

Accept Erosion Control Bonds

4. RESOLVED, that the Town Board does hereby authorize acceptance of the following Erosion Control Bond per memo dated November 22, 2010 from Wendy Getting, Senior Office Assistant:

a. \$100.00 – Daly Stormwater Mgmt. & Erosion & Sediment Control – 27.20-1-21

Release Erosion Control Bonds

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

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- a. \$200.00 – Monica Wetland Permit – 16.06-3-33
- b. \$ 25.00 – Creegan Tree Preservation Permit – 16.05-3-82 & 88
- c. \$100.00 – Creegan Tree Preservation Permit – 16.05-3-82
- d. \$ 25.00 – Parsons Tree Preservation Permit – 16.10-1-10
- e. \$100.00 – Bellantoni Tree Preservation Permit – 16.10-5-10
- f. \$100.00 – Dudyshyn Contracting – Tree Preservation & Erosion Control 26.15-1-11
- g. \$ 25.00 – Vegliante Tree Preservation Permit – 5.17-2-50

Submit app to NYS
Dept of Parks &
Rec's Historic
Preservation Office
consideration of
Tomahawk Chapel

6. RESOLVED, that the Town Board does hereby authorize Mary Parker permission to submit application to the New York State Department of Parks & Recreation's Historic Preservation Office for the consideration of Tomahawk Chapel.

Release of
Bonds for the
Preserve
Subd.

7. RESOLVED, that the Town Board does hereby authorize release of the following bonds for the Preserve Subdivision Phase V per memo dated December 2, 2010 from Steven Woelfle, Principal Engineering Technician:
- a. Performance Bond in the amount of \$203,056.00
 - b. Erosion Control Bond #0355353 in the amount of \$40,232.00.

Accept 2011
Highway
Material Bids

8. RESOLVED, that the Town Board does hereby authorize accepting low bid for Highway Material for 2011 with the exception of mileage deviations for all categories picked up (F.O.B.) by trucks furnished by the Town of Somers. Bituminous materials and asphalt concrete are subject to price adjustment formulas, per memo dated December 6, 2010 from Thomas E. Chiaverini, Superintendent of Highways.

Execute grant
app for Clean
Flow System

9. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute grant application with NYS Facilities Corp. Green Innovation Grant for Clean Flow System and Stormwater Improvements for Lake Shenorock.

Adopt 2011
Dog Fee
Schedule

10. RESOLVED, that the Town Board does hereby adopt 2011 Dog Fee Schedule per memo dated December 6, 2010 from Kathleen R. Pacella, Town Clerk:

Neutered/Spayed Dogs – From \$5.50 to \$15.00 (\$1.00 for State Fee)
Unneutered/Unspayed Dogs – From \$15.50 to \$20.00
(\$3.00 for State Fee)

Create position
Lead Maintenance
Mechanic (Auto)

11. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute Westchester County form LJ-3 to create the position of Lead Maintenance Mechanic (Auto) with the Highway Department.

Agreement w/
Ecology &
Environment

12. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute agreement with Ecology and Environment, Inc. for energy consulting work to be done, pending Town Attorney approval.

The Supervisor wished everyone a Merry Christmas, Happy Chanukah, Happy Kwanza and everything else that was being celebrated at that time of year. She said that she wanted to thank the Somers Lions, Chamber of Commerce, Somers Historical Society, the Parks Department and the Police; there was a very nice Holiday Celebration in the Town House. She said that it was well attended and it was a very nice time.

Councilman Clinchy said that the Rotary Club was accepting sweaters and jackets at the Town House and the Library. He said that there was a Food Patch donation center at the Town House.

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Claims for the payment of all Town Bills in the amount of \$1,095,841.98 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 8:55 PM.

Town Clerk