

JULY 9, 2009 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening July 9, 2009 at 7:40 PM at the Town House 335 Route 202, Somers, New York.

ROLL CALL:

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

ABSENT:

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

The Supervisor said that this was a public hearing with regard to a proposed Local Law amending Chapter 158 entitled Vehicles and Traffic of the Town of Somers with regard to proposed stop sign for Tulip Road.

The Town Clerk presented affidavit of public notice of the public hearing appeared in the North County News on June 24, 2009 and posted on the Town Clerk's bulletin board the same day.

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

Mr. John Peters, 29 Larch Drive, said that Tulip Road was a straightaway going up a hill and it was used as a speedway. He said that there were a lot of children in the neighborhood and it was only a matter of time before someone gets hurt. He asked the Board to take this as a public safety issue and address it as soon as possible.

Mr. Bruce Kelly, 18 Tulip Drive, said that he agreed with Mr. Peters and thought there should be a few more stop signs in that area and the Board should also consider at least 1 speed bump on Tulip Road.

There being no one else to be heard on motion of Supervisor Murphy, seconded by Councilman Garrity the public hearing was declared closed at 7:42 PM.

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Town Clerk

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Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening July 9, 2009 at 7:43 PM at the Town House 335 Route 202, Somers, New York.

ROLL CALL:

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

ABSENT:

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

The Supervisor said that this was a public hearing with regard to an amendment to the Code of the Town of Somers to amend Chapter 67 entitled Application Processing Restrictive Law to provide for a waiver in the event of an emergency situation and to amend the form of affidavit used in connection with the administration of said law.

The Town Clerk presented affidavit of public notice of the public hearing appeared in the North County News on June 24, 2009 and posted on the Town Clerk's bulletin board the same day.

The Supervisor explained that the law was originally enacted so that people would not be able to process applications before a Board if outstanding fees were owed to the Town or if there were violations. She said that in the application they realized that they did not want to stop people in emergency situations. She said that they realized in the processing of the form that the property owner had to fill out was a bit onerous. The Supervisor explained that it required an Affidavit that needed to be notarized and in some instances it was becoming burdensome. She said that staff and herself met and they felt removing the notarization portion would remedy the situation.

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

There being no one to be heard on motion of Supervisor Murphy, seconded by Councilman Clinchy, the public hearing was declared closed 7:45 PM.

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Town Clerk

JULY 9, 2009 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening July 9, 2009 at 7:50 PM at the Town House 335 Route 202, Somers, New York.

ROLL CALL:

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

ABSENT:

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

The Supervisor said that this was a public hearing with regard to a petition to extend the Somers Sewer District to include the Planned Hamlet Subdivision.

The Town Clerk presented affidavit of public notice of the public hearing appeared in the North County News on June 24, 2009 and posted on the Town Clerk's bulletin board the same day.

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

The Town Clerk presented affidavit of public notice of the public hearing appeared in the North County News on June 24, 2009 and posted on the Town Clerk's bulletin board the same day.

The Supervisor declared the hearings opened and asked for comments from the public.

Mr. Seth Mandelbaum of McCullough, Goldberger & Staudt, LLP on behalf of Somers Reality Corp. owner of the Somers Reality Planned Hamlet project said that they were there in connection to the petitions to extend Somers Sewer District #1 and the Amawalk Shenorock Water District to provide the necessary utility services for the Planned Hamlet project. He said that the Planning Board went through an expansive SEQRA Review of the project and they thought it would be useful for the Board and the public to have a review of what the approved components were of the Master Plan and the timeline of going forward. He said that the House Action Counsel received their approval for State Funds with regard to the 72 Senior Affordable Units that were proposed. He explained what approvals were needed to have the appropriate utilities for the property. Mr. Mandelbaum said that the components of the property were 72 Affordable Senior Housing units, 152 residential units, an 80,000 square feet Assisted Living Facility, 40,000 square feet of Professional Office space, 4,000 square feet Club House and 30,000 square feet of Retail and Restaurant space. He said that the Master Plan also included recreational uses, a Village Green and sites for future pump stations, Fire House and a Water Tower. He said with regard to sequencing they anticipated filing a subdivision application by late summer. The Supervisor asked if that was for the entire site. Mr. Mandelbaum explained that was why they were there that evening asking for the district to be extended over the entire property. He said that the subdivision would break out the different lots. The Supervisor said that she was interested in hearing about the schedule for the Planned Hamlet. He said that once the districts were extended that would allow for the subdivision to happen, which will allow Housing Action Counsel to make their Site Plan application for the particular parcel for the 72 affordable units. He continued that would be done either concurrently or very close behind the subdivision application. Mr. Mandelbaum said that it was his understanding that the funding had a finite lifespan and they need to keep moving forward. The Supervisor said that she understood what the time constraints were and asked what they were doing to ensure that the time constraints were met. Mr. Mandelbaum explained the processes that they had been going through and what was left for them to do. The Supervisor asked Mr. Mandelbaum to explain why the parcel that the Housing Action Council would be using to build the Senior Affordable

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Housing cannot be let into the Water and Sewer Districts initially and the other parcels wait. Mr. Mandelbaum said that it was driven by the County Health Department. He explained that when the County signed the subdivision plat they were certifying that the entire subdivision had adequate Water and Sewer. He continued that if they did what the Supervisor was suggesting then the lot would become a 2 lot subdivision and if the district was only extended to the corner lot then there would not be adequate Water and Sewer provisions for the larger second lot and the County Health Department would not sign the plat.

Councilman Meyer asked when they came back with the subdivision plan how many parcels were they proposing.

Mr. Dan Kaufman, the Project Engineer, explained the map that was presented showed the approved Master Plan which went through the SEQRA review. He continued and presented the Board with a preliminary subdivision map which showed 17 lots. He said there was going to be several different developers of the property and the subdivision plat allows for separate entities to buy the lots and build the different components. Mr. Kaufman said that in the Environmental Review each lot must stand on its own and conform to the Master Plan and he listed what that entailed.

The Supervisor said that the Board received a letter from the County in connection with another application and they think that the Town should be looking at the issue of Water and Sewer more globally. She said that a concern that she had was that this application was late coming to the Town Board and there were close deadlines being faced and the burden that it was going to cause on the staff of the Town. She said that County was concerned with the global issue of Sewer and asked how they were going to explain the aspect of it. Mr. Kaufman explained where the Water and Sewer Facilities were going to be located on the property and what options they had to be connected to the parcels.

The Supervisor said that it had been conveyed to her that the Housing Action Council would like to have the shovel in the ground by February 2010. She said that she seriously doubted that they were going to be able to go through all of the paperwork in time. Councilman Meyer said that the whole point of the Master Plan for the Planned Hamlet was that there was going to be centralized planning and that the road system was going to be put in place, the infrastructure installed and they were simply going to need a lateral to the main line that would be running in front of their road. He said that it sounded like they were going to be providing much less support with regard to infrastructure than what the Board was told a few months ago. Councilman Clinchy asked if the plan had changed because of the economy or was this a misunderstanding. Mr. Kaufman said that he did not represent the plan as Councilman Meyer stated. Councilman Meyer said that Counsel represented that all the Housing Action Council would have to do through their development of their parcel was provide a service line from the building to the road where the main would be. Mr. Kaufman said that could be a temporary smaller system until the big one was finished. Councilman Meyer said that it sounds like they were not providing utilities that at the last meeting the Board was told would be provided. Mr. Kaufman said that Rose Noonan was well aware of this and this was nothing new. The Supervisor said that she heard conversations along those lines as well. She said that they wanted to ensure that they were going to have Water and Sewer for the Senior Affordable Housing parcel.

The Town Attorney said that what Mr. Mandelbaum was saying was correct even if he tried to carve off the Senior Affordable Housing piece it would still be a 2 lot subdivision and for the County Board of Health to sign the subdivision plat there had to be a provision for Water and Sewer facilities for the lot. Mr. Kaufman said that the approval note stated subject to provision of public Water and Sewer, there was no segmenting that approval. The Town Engineer explained that in order for the plat to be filed it had to show the Water and Sewer District boundaries. Councilman Meyer asked if it would be more expeditious for them to do the subdivision first, have the one lot with Senior Affordable Housing and provide Water and Sewer District extension to that lot. The Supervisor said that would not be subdividable without being in the districts. The Supervisor said that she was concerned with capacity. The Town Engineer said that he

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was not sure if capacity could be held in conveyance for something that may or may not happen in the future.

The Town Engineer said that the application included more property than what was approved and he thought that it may have to be re-noticed. He said that they were including areas outside of the Planned Hamlet. Mr. Mandelbaum stated that they were not. The Town Engineer pointed out that they were including all of lot 12 and that was not in the Planned Hamlet. He explained that the petition was for an area that was slightly larger than the Planned Hamlet Zoning because it slices a tax lot in half. Councilman Garrity said that they were asking the Board to extend the Water District into an area that they did not know what was going to be put there. Mr. Mandelbaum stated that the area was zoned Single Family Residential and it was subject to the Town's Zoning. He explained the reasoning for including was it could not be excluded because it was part of the same tax lot that could not be excluded from the petition. The Town Attorney stated that nowhere in the petition was there an indication that there was excess land. Councilman Meyer said that this was not what the Planning Board approved and Mr. Mandelbaum was misrepresenting the Planning Board and the people who worked on the project over the years. Mr. Mandelbaum said that it was in the petition that was filed in April. The Supervisor clarified that it was in the map and not the text. The Town Engineer said that the petition did include land outside the Planned Hamlet the description was also incorrect and it was his opinion that the Orders would have to be re-noticed. He pointed out that there were about 20 acres of additional land. Mr. Kaufman said that the reasoning for the inclusion of the additional land was that the Town created a zoning line that did not conform to a Tax Lot Line when they created the Planned Hamlet District. The Supervisor said that there was no reason to include the additional parcel because there was no reason why they would not be able to subdivide without being in a Water or Sewer District. The Town Attorney asked what was covered in the description that was in the petition. Mr. Kaufman stated it was for the entire property. The Town Attorney asked the Town Engineer why the description was in error. The Town Engineer said that the description appeared to include the entire Planned Hamlet and Lot 12. Councilman Meyer asked the Town Engineer to point out boundaries of the Planned Hamlet and the additional land. He said that the part of Lot 12 that was in the Planned Hamlet was the recreational area and if all of Lot 12 was excluded from Water and Sewer it would not have an effect on the ability to develop the Residential and Commercial building. He said that it would be most expeditious to remove Lot 12. The Town Attorney said that the proceedings would have to be redone. The Supervisor asked why the subdivision process could not be started; they were not being fair to the Planning Board. The Town Attorney said that they could start the process.

Ms. Joanne Meder, F.P. Clark, said that she was concerned that no SEQRA documentation that was submitted by the applicant up to this point addressed the impacts of the expansion of the Sewer District to the additional land outside the Planned Hamlet. She said that procedurally she would have to look into how that would have to be tacked on to the process at this point. She said the Town Board also needed to discuss looping the Water Main with the applicant as stated in the Findings Statement.

The Supervisor said that the petition needed to be redone at this point. The Town Attorney suggested the Board adjourn the public hearing, the Attorneys would have a meeting and they will come back to the Board with a recommendation on how to proceed. He said that if the Orders needed to be re-noticed the Supervisor may want to authorize that as well.

The Supervisor said that they needed to move forward on the Senior Affordable Housing parcel and if the Attorneys could get together to see if it was possible to move forward on that first. Councilman Meyer said that he agreed that needed to be the focus at this point. The Town Attorney said that if there is a way to just carve out the Senior Affordable Housing piece and to extend the District just to that area at this time that was the direction the Board would want to go.

Mr. Mandelbaum said that he did not think that the lot could be carved out. He said that he did not know if the additional land that was a different Zoning District could be part of the same Tax Lot.

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The Town Engineer said that part of the problem that this would create was the Planning Board had a strict approval with conditions. He continued that the conditions include that the entire parcel be in the Water and Sewer Districts and if the Board just approved the Senior Affordable Housing parcel it would create a problem in the Master Plan.

A representative of the Housing Action said that they understood that the Board needed to do this correctly although they had deadlines that were proposed by the State's decision to fund part of the project using Federal Stimulus Funds. They said that they needed to be in the ground by February 2010.

The Supervisor asked Mr. Mandelbaum to start the subdivision process and if possible the site plan application so that they could be going on concurrently so they would not be waiting until the last minute.

There being no one else to be heard on motion of Supervisor Murphy, seconded by Councilman Meyer, the public hearings were adjourned to the next regular meeting at 8:50 PM.

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Town Clerk