

APRIL 12, 2018 – REGULAR MEETING

Minutes of a regular meeting of the Town Board of the Town of Somers held on Thursday evening April 12, 2018 at 6:00 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:       Supervisor       Rick Morrissey  
                  Councilman       Richard G. Clinchy  
                  Councilman       Thomas A. Garrity, Jr.  
                  Councilman       Anthony J. Ciriaco  
                  Councilman       William G. Faulkner

ABSENT:

Also present were Patricia Kalba, Town Clerk, Linda Verderame, 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.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Ciriaco, the meeting was adjourned to an executive session at 6:00 PM with regard to personnel to return that evening.

7:15 PM – meeting reconvened

The Supervisor said that it was in order for the Board to open a public hearing with regard to the proposed Local Law to amend Chapter 96 entitled Filming of the Code of the Town of Somers by amending Section 96-2 entitled License Required.

7:15 PM – hearing opened

7:17 PM – meeting reconvened

The Supervisor said that it was in order for the Board to adopt a Local Law with regard to the proposed amendment to Chapter 96 entitled Filming of the Code of the Town of Somers by amending Section 96-2 entitled License Required.

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

RESOLVED, that the Town Board does hereby adopt a Local Law amending Chapter 96 entitled Filming of the Code of the Town of Somers by amending Section 96-2 entitled License Required as follows:

A Local Law amending Chapter 96 entitled Filming of the Code of the Town of Somers by amending Section 96-2 entitled License Required.

1. Section 96-2 is hereby amended to read:

No movie, documentary television program, commercial, similar presentation, or any portion thereof, shall be filmed, videotaped, recorded or otherwise made on any private or public property within the Town of Somers unless an agent of the group or company doing the filming, videotaping or recording or the individual doing the filming, videotaping or recording, hereinafter sometimes referred to as the "applicant(s)," first makes an application for and obtains a

permit for the filming, videotaping or recording.

2. This Local Law shall take effect 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 the proposed Local Law to amend Chapter 88, entitled Energy Conservation, Article I, entitled Energize NY Benefits Financing Program of the CODE of the Town of Somers in its entirety.

7:17 PM – hearing opened  
7:18 PM – meeting reconvened

The Supervisor said that it was in order for the Board to adopt a Local Law with regard to the proposed amendment to Chapter 88, entitled Energy Conservation, Article I, entitled Energize NY Benefits Financing Program of the CODE of the Town of Somers in its entirety.

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

RESOLVED, that the Town Board does hereby adopt a Local Law amending Chapter 88, entitled Energy Conservation, Article I, entitled Energize NY Benefits Financing Program of the CODE of the Town of Somers in its entirety as follows:

A LOCAL LAW to amend Chapter 88, entitled Energy Conservation, Article I, entitled Energize NY Benefits Financing Program of the CODE of the Town of Somers in its entirety.

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

**Section 1.** This Local Law shall be known as the “Energize NY Benefit Financing Program,” and shall read as follows:

## ARTICLE I

### **§1. Legislative findings, intent and purpose, authority.**

- A. It is the policy of both the Town of Somers and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The Town of Somers finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This chapter establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of the Town of Somers pursuant to the municipal agreement to be entered into between the Town of Somers and EIC pursuant to Article 5-G of the New York General Municipal Law (the “Municipal Agreement”), to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this law and fulfilling an important public purpose.
- B. The Town of Somers is authorized to implement this Energize NY Benefit Financing Program pursuant to the Municipal Home Rule Law and Article 5-L of the New York General Municipal Law.

- C. This law shall be known and may be cited as the “Energize NY Benefit Financing Program Law of the Town of Somers”.

## **§2. Definitions**

For purposes of this law, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

**Authority** – The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the Public Authorities Law, or its successor.

**EIC** – the Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of the Town of Somers to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this law) and providing for repayment of such funds from monies collected by the Town of Somers tax collecting officer as a charge to be levied on the real property and collected in the same manner and same form as the Town of Somers taxes.

**Energy Audit** – A formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

**Energy Efficiency Improvement** – Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

**Qualified Property Owner** – An owner of residential or commercial real property located within the boundaries of the Town of Somers that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this law.

**Renewable Energy System** – An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the Qualified Property Owner is a commercial entity in which case the system may be used for other properties in addition to the subject property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

**Renewable Energy System Feasibility Study** – A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

## **§3. Establishment of an Energize NY Benefit Financing Program**

- A. An Energize NY Benefit Financing Program is hereby established by the Town of Somers, whereby EIC acting on its behalf pursuant to the Municipal Agreement, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this law, to finance the acquisition, construction and installation of Renewable

Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.

- B. For funds provided to a Qualified Property Owner which is a commercial entity, not-for-profit organization, or entity other than an individual, EIC shall have the authority to impose requirements on the maximum amount of funds to be provided, which may consider factors including but not limited to the property value, projected savings, project cost, and existing indebtedness secured by such property.
- C. For financings made to a Qualified Property Owner who is an individual, the funds provided shall not exceed the lesser of: (i) ten percent of the appraised value of the real property where the Renewable Energy Systems and/or Energy Efficiency Improvements will be located, or (ii) the actual cost of installing the Renewable Energy Systems and/or Energy Efficiency Improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

#### **§4. Procedures for eligibility**

- A. Any property owner in the Town of Somers may submit an application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the Town of Somers offices.
- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the Town of Somers, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in section 5 of this law. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC acting on behalf of the Town of Somers, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under section 6 of this law; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of Energy Efficiency Improvements and/or Renewable Energy Systems be deemed a Qualified Property Owner.

#### **§5. Application criteria**

Upon the submission of an application, EIC acting on behalf of the Town of Somers, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

- A. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective based on guidelines issued by the Authority;
- B. The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;
- C. The amount financed under the Energize NY Benefit Financing Program shall be repaid over a term not to exceed the weighted average of the useful life of Renewable Energy Systems and Energy Efficiency Improvements to be installed on the property as determined by EIC;
- D. Sufficient funds are available from EIC to provide financing to the property owner;
- E. The property owner is current in payments on any existing mortgage;
- F. The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and

- G. Such additional criteria, not inconsistent with the criteria set forth above, as the Town of Somers, or EIC acting on its behalf, may set from time to time.

**§6. Opt-in, Energize NY Finance Agreement**

- A. A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an energize NY finance agreement made by and between the Qualified Property Owner and EIC, acting on the behalf of the Town of Somers (the “Energize NY Finance Agreement”).
- B. Upon execution of the Energize NY Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC acting on behalf of Town of Somers, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of Section 7 of this law have been met.
- C. The Energize NY Finance Agreement shall include the terms and conditions of repayment set forth under section 8 of this law.

**§7. Energy audit, renewable energy system feasibility study**

- A. No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 2.
- B. No funds shall be made available for a Renewable Energy System unless determined to be feasible through a Renewable Energy System Feasibility Study as defined in Section 2.
- C. The cost of such Energy Audit and/or Renewable Energy System Feasibility Study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

**§8. Terms and conditions of repayment**

The Energize NY Finance Agreement between the Qualified Property Owner and EIC acting on behalf of the Town of Somers, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their Town of Somers tax bill and shall be levied and collected at the same time and in the same manner as Town of Somers property taxes, provided that such charge shall be separately listed on the tax bill. The Town of Somers shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the date the payment is due to be made to the Town of Somers.
- B. The term of such repayment shall be determined at the time the Energize NY Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the Town of Somers.
- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of the Town of Somers at the time the Energize NY Finance Agreement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program as set forth in Article 5-L of the General Municipal Law and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

**§9. Verification and report**

- A. EIC shall be responsible for verifying and reporting to the Town of Somers on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such Program.
- B. The Town of Somers shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

**Section 2.** This local law shall take effect upon filing with the Secretary of State.

The Supervisor said that it was also in order for the Board to authorize the execution of the Energy Improvement Corporation Amended Municipal Agreement.

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Energy Improvement Corporation Amended Municipal Agreement between the Town of Somers and Energy Improvement Corporation (EIC).

The Supervisor said that it was in order for the Board to open a public hearing with regard to the proposed Local Law to amend Chapter 118 entitled Littering and Dumping by deleting Article I thereof, adopting a new Article I, renumbering Article II and adopting Article III of the Code of the Town of Somers.

7:20 PM – hearing opened  
7:30 PM – meeting reconvened

The Supervisor said that it was in order for the Board to adopt a Local Law with regard to the proposed amendment to Chapter 118 entitled Littering and Dumping by deleting Article I thereof, adopting a new Article I, renumbering Article II and adopting Article III of the Code of the Town of Somers.

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

RESOLVED, that the Town Board does hereby adopt a Local Law amending Chapter 118 entitled Littering and Dumping by deleting Article I thereof, adopting a new Article I, renumbering Article II and adopting Article III of the Code of the Town of Somers as follows:

A Local Law to amend Chapter 118 entitled Littering and Dumping by deleting Article I thereof, adopting a new Article I, renumbering Article II and adopting Article III of the Code of the Town of Somers.

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

1. **§118-1. Title.** This Chapter shall be known and may be cited as the “Somers Litter and Dumping Control Law”.

ARTICLE I  
**Litter**

**§118-2. Definitions and word use.**

For the purpose of this chapter, the following words, phrases and terms and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular; words used in the singular number include the plural; and words in the masculine include the feminine and the neuter. The word “shall” is always mandatory and not merely directory.

**BUILDING, MAIN-** A building in which is conducted the main or principal use of the lot on which said building is situated.

**GARAGE SALE-** The sale of tangible personal property from residential premises entitled “garage sale,” “yard sale,” “tag sale,” “porch sale,” “lawn sale,” “attic sale,” “basement sale,” “rummage sale,” “flea market” or any similar casual or occasional sale advertised to the public at large as such.

**GARBAGE-** Putrescible animal and vegetable wastes resulting from handling, preparation, cooking and consumption of food.

**HANDBILL -**Any printed or written matter, any sample or device, dodger, circular, leaflet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature.

**LESSEE-** Any person, corporation, firm, partnership, agency, association that rents, bails, leases or contracts, for the use of one or more vehicles and has the exclusive use thereof for any period of time.

**LESSOR-** Any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee or bailee under a rental agreement, lease or otherwise, wherein the lessee or bailee has the exclusive use of the vehicle for any period of time.

**LITTER-** Garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger of public health, safety and welfare or tends to create blight.

**NEWSPAPER -** Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

**OWNER -** Any person, corporation, partnership, firm, agency, association, lessee, or organization which at the time of the notice of violation is issued pursuant to this chapter in which a vehicle is operated:

- A. Is the beneficial or equitable owner of such vehicle; or
- B. Has title to such vehicle; or
- C. Is the registrant or co-registrant of such vehicle which is registered with the Department of Motor Vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or
- D. Uses such vehicle in its vehicle renting and/or leasing business.

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PARK - A park, reservation, playground, beach, recreation center or any other public area in the town owned or operated by the town, and devoted to active or passive recreation.

PERSON- Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PREMISES- Any house, building or other structure not owned or operated by the town, whether inhabited or temporarily or continuously inhabited or vacant, including any yard, around parking lot, walk, driveway, porch steps, vestibule or mailbox belonging or appurtenant to such house, building or other structure.

PRIVATE RECEPTACLE - A storage and collection container for the storage of litter or rubbish or for the collection of reusable or recyclable household items, such as clothing or shoes, constructed of steel, aluminum or rigid plastic, with or without a heavy duty plastic liner or sack structured and placed so that the exit and entrance of rodents or other animals is prevented; they can be easily cleaned; they will not break or burst when lifted; they are easily unloaded; and they are sufficient integrity to confine such litter or recyclables between the regular collections thereof. On its own initiative, or at the request of any person, firm or corporation, the Town Board may approve as fit and suitable for such purposes any such container. The term “private receptacle” shall include within its meaning those containers commonly known as “dumpsters” or any other container when used to accumulate or store refuse or trash.

PUBLIC PLACE- Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, beaches, squares, spaces, grounds and buildings.

RECORDED IMAGES - Images recorded on photographs, microphotographs, videotape, electronic or digital images, or any other medium, showing the front or rear of a vehicle, clearly identifying the registration plate number of the vehicle.

REFUSE - All putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, street cleanings and solid market and industrial wastes.

RESIDENTIAL PREMISES- A single- or multiple-family dwelling unit used for residential purposes which is not located in an area of town zoned for commercial, industrial, business, manufacturing or mercantile uses.

RUBBISH- Non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as, but not limited to, paper wrappings, cardboard, tin cans, wood, glass, bedding and crockery.

TOWN - The Town of Somers.

VEHICLE - Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power.

**§118-3. Littering in public places prohibited.**

- A. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles or in authorized private receptacles designated for the deposit of such litter, or in an official town dump.
- B. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements, upon any street, sidewalk or other public place or upon private property.

- C. No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.
- D. Persons owning or occupying property shall keep the area or sidewalk in front of their premises free of litter.

**§118-4. Littering from vehicles prohibited.**

No person shall throw or deposit litter from any vehicle upon any street or other public place within the town or upon private property.

**§118-5. Littering in/on parks, beaches and bodies of water prohibited.**

- A. No person shall throw or deposit litter in any park or beach within the town except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or private place. Where public receptacles are not provided, all such litter shall be carried away from the park or beach by the person responsible for its presence and properly disposed of elsewhere, as provided herein.
- B. No person shall throw or deposit litter in any pond, river, stream or other body of water within the town.

**§118-6. Littering on private property prohibited.**

- A. No person shall throw or deposit litter on any private property within the town, whether owned by such person or not and whether occupied or vacant, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.
- B. Any owner or person in control of premises upon which litter shall be found shall, upon being ordered to do so by the Building Inspector of the Town of Somers or an Assistant Building Inspector of the Town of Somers, remove the same from the premises within 72 hours of having been so ordered. Any such order which is sent to any person within the State of New York by mail shall be presumed to have been received within two business days from the date of mailing. Any such order which is sent to any person outside of New York State by mail shall be presumed to have been received within four business days from the date of mailing.

**§118-7. Handbills.**

- A. In public places. No person shall throw or deposit any handbill in or upon any sidewalk, street or other public place within the town. No person shall hand out or distribute any handbill in any public place except to persons willing to accept it.
- B. On vehicles. No person shall throw or deposit any handbill in or upon any vehicle; except it shall not be unlawful in any public place for a person to hand out or distribute a handbill to any occupant of a vehicle who is willing to accept it.
- C. On private property. No person shall throw or deposit any handbill in or upon any private premises which are:
  - 1) Temporarily or continuously uninhabited or vacant.

- 2) Posted with a sign placed in a conspicuous position near the entrance thereof, bearing the words “No Peddlers or Agents,” “No Advertisements” or words of similar import indicating the desire of the occupants not to have such handbills left upon such premises, or where an occupant expressly directs the person not to throw, deposit or distribute the handbill on the premises.
  - 3) Inhabited, but not posted or subject to an express warning by an occupant except by handling or transmitting any such handbill directly to an occupant, unless he places or deposits any such handbill so as to secure or prevent it from being blown or drifted about the premises or sidewalks, streets or other public ways.
- D. The provisions of this section shall not apply to the distribution of mail by the United States Postal Service nor to newspapers (as defined herein), except that newspapers shall be placed on private property in such a manner as to prevent them being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

**§118-8. Posting notices prohibited.**

- A. No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any lamp post, utility pole or tree or upon any public structure or building, except as may be authorized or required by law.
- B. Exemptions. The prohibitions contained in this section shall not apply to:
  - 1) Notices, posters or other papers or devices calculated to attract the attention of the public to a garage sale. Such notices, posters or other papers or devices may not be posted more than six days prior to such garage sale and must be removed within three days thereafter.
  - 2) Notices, posters or other papers or devices calculated to attract the attention of the public to a not-for-profit function or event of any charitable, educational, cultural, fraternal, religious corporation, association or institution, civic group, service club, voluntary association or not-for-profit corporation (but not political posters). Such notices, posters or other papers or devices may not be posted more than six (6) days prior to such function or event and must be removed within three (3) days thereafter.

**§118-9. Penalties for offenses.**

- A. Any person committing an offense against any of the provisions of this chapter shall be punished, upon conviction, by a fine not exceeding \$1,000 a day or by imprisonment not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.
- B. It shall be the duty of the duly appointed Building Inspector and his agents, as well as the Town Police Department, to enforce the provisions of this chapter.

ARTICLE II  
**Dumping**

**§118-10. Definitions.**

As used in this Article, the following terms shall have the meanings indicated:

GARBAGE- Includes waste food, papers, dead animals or parts thereof and all waste or discarded wood, lumber or vegetable matter of any kind or any other matter which shall be flammable or capable of fermentation or decay.

PERSON -Includes an individual, society, club, firm, partnership, corporation or association of persons, and the singular number shall include the plural number.

RUBBISH - Includes waste metal, tin cans, ashes, cinders, glass, pottery and all discarded substances of a solid and incombustible nature.

**§118-11. Transporting or dumping of materials from outside town prohibited.**

No person shall transport or bring or cause to be transported or brought into or shall throw, dump or deposit or cause to be thrown, dumped or deposited, in any part of the Town of Somers, any garbage, rubbish or abandoned vehicles or parts thereof from any garbage, rubbish or abandoned vehicles or parts thereof from any source whatever originating outside of the Town of Somers; and no person shall permit such throwing, dumping or depositing thereof upon property owned, leased or controlled by such person.

**§118-12. Penalties for offenses.**

A violation of this Article shall be punishable by a fine not exceeding One Thousand Dollars (\$1,000.) or imprisonment for not more fifteen (15) days, or both, for each offense. In addition, the Town Board shall have the right to maintain an action or proceeding in a court of competent jurisdiction to compel compliance or to restrain by injunction any violation of the provisions of this Article, pursuant to Section 135 of the Town Law.

ARTICLE III

**§118-13. Recorded images violations applicable to Litter and Dumping.**

- A. Legislative intent. The Town hereby finds and determines that littering and dumping within the Town is a threat to the health, well-being and safety of the residents of the Town. As a result, the Town has determined to utilize any permissible technological means available to reduce the incidence of littering and dumping. Therefore, the Town has established a policy and procedure set forth in this section to impose liability on the owner of a vehicle in any instance where the image of the operator of such vehicle is captured digitally or otherwise recorded on town owned or leased equipment throwing or depositing litter or dumping from such vehicle upon any street or other public place within the Town or upon private property.
- B. Owner liability. The owner of a vehicle shall be liable for a civil penalty imposed pursuant to this section if such vehicle is used or operated with the permission of the owner, express or implied, in any instance where a recorded image is obtained on town owned or leased equipment showing the operator throwing or depositing litter or dumping from such vehicle upon any street or other public place within the Town or upon private property.
- C. Notice of liability. A notice of liability shall be sent by the Town's Code Enforcement Officer by first-class mail to each person alleged to be liable as an owner of a vehicle in violation of this section. A notice of liability shall contain the name and address of the person to be liable for the violation as the owner; the registration of the vehicle involved in such violation; the location where the violation occurred; the date and time of such violation. Further, the notice of liability shall advise the person charged of the court having jurisdiction to adjudicate the liability of the violation and the time in which he or she may contest

the liability alleged in the notice and that a failure to contest the notice in the manner and time prescribed shall be deemed an admission of liability.

D. Certificate as prima facie evidence. A certificate sworn to or affirmed by the Town's Code Enforcement Officer primarily responsible for enforcing the provisions of this chapter based upon a review of the recorded images shall be prima facie evidence of the facts contained therein. Any recorded images shall be available for inspection in any proceeding commenced in a court of competent jurisdiction to adjudicate the liability of such violation.

E. Penalties. An owner shall be required to pay to the Town for a violation of this section a monetary civil penalty not to exceed \$1,000.00 for each violation, in addition to any other penalties contained in any other provision of law. In the event the Town is required to institute legal proceedings in a court of competent jurisdiction to adjudicate the liability of the violation and to recover such civil penalty, upon such adjudication the Town shall be entitled to recover from the owner any and all associated costs and disbursements incurred by the Town, if any, including attorney's fees and interest upon any unpaid civil penalty calculated at the statutory rate.

F. Indemnification. If the owner of a vehicle liable for the civil penalty imposed in accordance with this section was not the operator of the vehicle at the time of violation, the owner may maintain an action for indemnification against the operator for any civil penalties paid as well as any costs, disbursements or attorney's fees assessed against the owner.

G. Defenses:

1. An owner shall have a valid defense to an allegation of liability under this section if the vehicle in question had been reported to a police department or agency as stolen prior to the time the violation occurred and had not been recovered by the time the violation occurred. For the purposes of asserting this defense, it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first-class mail to the court having jurisdiction to adjudicate the liability of the violation.

2. An owner who is a lessor of a vehicle to which a notice of liability is issued shall not be liable for the violation, provided that he or she sends to the court having jurisdiction to adjudicate the liability of the violation a copy of the rental, lease or other such contract covering such vehicle on the day of the violation, with the name and address of the lessee clearly legible, within 30 days after receiving notice of such violation. Failure to send such information within the 30 days shall render the owner liable for the penalty prescribed in this section. When the lessor complies with the provisions of this subsection, the lessee of such vehicle on the date of the violation shall be deemed to be the owner of such vehicle for the purposes of this section.

3. No owner of a vehicle shall be subject to a monetary fine under this section, if the operator of such vehicle was operating the vehicle without the consent of the owner at the time of the violation. However, there shall be a presumption that the operator of such vehicle was operating the vehicle with the consent of the owner at the time the violation occurred.

H. Nothing in this section shall preclude the Town's Code Enforcement Officer or any other law enforcement officer from taking such other action in connection with violations of any other applicable rules, regulations, statutes or laws.

2. This Local Law shall take effect upon filing of same with the Secretary of State of the State of New York.

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PUBLIC COMMENT:

There being no one to be heard on motion of Supervisor Morrissey, seconded by Councilman Faulkner, public comment was declared closed.

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

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

Approval of  
Minutes

RESOLVED, that the Town Board does hereby approve the minutes of the March 1, 2018 Work Session, the March 8, 2018 Public Hearing with regard to a proposed Local Law to amend Chapter 170, entitled Zoning, Article XIA, entitled Affordable Housing in its entirety; March 8, 2018 Public Hearing with regard to a proposed Local Law to amend Chapter 3, entitled Affordable Housing Board, § 3-3, entitled Powers and Duties; March 8, 2018 Public Hearing with regard to the proposed increase in the 2018 Quarterly Water Charges for the Amawalk-Shenorock Water District, the Windsor Farms Water District and the Amawalk Heights Water District and the March 8, 2018 Regular Meeting.

Monthly  
Reports

The Town Clerk presented monthly reports from the Town Clerk, Building Inspector, Zoning Board of Appeals, Plumbing, Bureau of Fire Prevention, Parks and Recreation, Planning and Engineering, Tax Receiver and Director of Finance. She also announced that S.C. Finn Grill Room, located at 325 Route 100, A103, Somers Town Centre, Somers, was applying for a new Liquor License.

Proclamation  
to T. Barlow

The Supervisor said the next item on the agenda was a presentation of a Proclamation to Ms. Thelma Barlow, retired School Crossing Guard. He invited Chief Michael Driscoll and Ms. Barlow to the podium.

Chief Driscoll said that Ms. Barlow had directed traffic, crossed children and prevented accidents in front of Somers Intermediate School and Somers Middle School in every type of weather for the Last 31 years. He presented Ms. Barlow with a plaque from the Somers Police Department in appreciation of her service to the Department. He wished her many, many years of good retirement.

The Supervisor thanked Ms. Barlow for protecting the Town's most precious resources, their children, over her many years of service.

Councilman Faulkner sincerely thanked Ms. Barlow as a parent, he always knew his child was safe while Ms. Barlow was there. He said that it was his understanding that the traffic pattern was not the same since her retirement.

Councilman Cirieco said that he had been asked where Ms. Barlow was from residents. He said that Ms. Barlow was that continuant volunteer, the first time he had the pleasure of meeting her, she recruited him for Boy Scouts. He said that the commitment, time and effort she gave to the Town was unbelievable.

Councilman Clinchy said that she was defiantly recognizable after all of the years he stood in front of the Schools. He said that everyone respected the job she did because she took her job seriously and preformed it professionally.

Councilman Garrity said the Supervisor often stated that the Town was made up of volunteers. He said that there was always that volunteer that superseded every other. He said that he has seen how the parents of the Town missed Ms. Barlow and how incredibly proud of her they were. Councilman Garrity said that Ms. Barlow's volunteering with the Boy Scouts was over and above everything else.

APRIL 12, 2018 – REGULAR MEETING

The Supervisor presented Ms. Barlow a Proclamation on behalf of the Town Board. He read the proclamation declaring Saturday, April 14, 2018, Thelma Barlow Day, in the Town of Somers.

15 Acre Angle  
Preserve  
Property

The next item was a discussion with regard to the 15 Acre Angle Preserve Property Survey. The Supervisor explained that when the purchase of the property was worked out with the Town of Somers, New York State Department of Environmental Conservation (DEC), New York City Department of Environmental Protection (DEP) and Westchester County, parcels were designated to the DEC and the DEP. He continued that Westchester County and the Town of Somers assumed ownership of the remaining parcels with the exception of 15 acres that were to be delineated and designated for Town Use only. He stated that the designation had never happened and they were in the process of working out an 11 acre land swap and at that time they made an agreement with the County to go back and make an effort to designate the 15 acres. The Supervisor said that the Town Board needed to authorize the hiring of a Land Surveyor to provide their options for the 15-acre property. He said that the parcel would certainly include the Reynolds House, the well that serviced the house and the parking area. The Town Attorney explained that he would need to create a Deed for the parcel and that required the Town to have a description of the property.

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute a contract with Link Land Surveyors to determine the property line for the 15 acre parcel at the Angle Fly Preserve in the amount of \$4,675.00 per email dated April 6, 2018 from Steven Woelfle, Principal Engineering Technician.

Code  
Change  
BHPD

The Supervisor said that the next item was with regard to a proposed Code Change to the Business Historic Preservation District (B-HPD). He explained that there had been signage issues throughout the Town over the last year that had predicated a Signage Taskforce. He thanked that Taskforce member who had meet and came up with certain recommendations. The Supervisor said that one of their recommendation was not to permit a "For Rent" or "For Sale" sign in the B-HPD. He said that a small sign with minimum information was agreed upon in the B-HPD. He said that throughout the Town temporary signage was restricted with the expectation of the B-HPD, temporary signs were allowed for a 14-day period advertising an event. The Supervisor said that they would be looking into that as well. The Town Attorney stated that the Board would want to hold the public hearing in June due to the referral process that was required of the Board.

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

RESOLVED, that the Town Board does hereby declare their intent to be Lead Agency for the proposed text amendment to Chapter 170, entitled Zoning, Article XXII, entitled Signs, Section 170-126, entitled Business Districts relative to sign in the Business Historic Preservation (B-HP) District of the Code of the Town of Somers.

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

RESOLVED, that the Town Board does hereby authorize distribution of the Notice of Intent to be Lead Agency and the Short Environmental Assessment Form for the proposed text amendment to Chapter 170, entitled Zoning, Article XXII, entitled Signs, Section 170-126, entitled Business Districts relative to sign in the Business Historic Preservation (B-HP) District of the Code of the Town of Somers to all Involved and Interested Agencies.

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

APRIL 12, 2018 – REGULAR MEETING

RESOLVED, that the Town Board does hereby schedule Public Hearing for June 14, 2018 for the proposed text amendment to Chapter 170, entitled Zoning, Article XXII, entitled Signs, Section 170-126, entitled Business Districts relative to sign in the Business Historic Preservation (B-HP) District of the Code of the Town of Somers.

Duress  
Buttons

The next item on the agenda was with regard to the replacement of Duress Buttons. The Supervisor said that some of the current buttons were outdated and needed to be replaced.

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute an Agreement with Commercial Instruments & Alarm Systems, Inc. (CIA Security) to replace three (3) Duress Buttons in the Town House per memo dated March 29, 2018 from Efreem Citarella, Building Inspector.

2018  
Fireworks  
Contract

The Supervisor said the next item on the agenda was a discussion with regard to the 2018 Fireworks Contract for the Annual Independence Day Celebration. He said that the Independence Day Celebration was being relocated to the Sebastian Capital Property, the former Pepsi property. He explained this was a suggestion from a Taskforce that was put together to boost participation. The Supervisor said that this was explored in great detail and he wanted to thank the Police Chief, Fire Chief, Fire Inspector and members of the Lions Club and Chamber of Commerce. He said that this would be a bigger event than what was typically held. He pointed out that the Independence Day Celebration would be held on June 30<sup>th</sup> with a rain date of July 1<sup>st</sup>.

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute an agreement with Garden State Fireworks in the amount of \$10,000.00 for the Independence Day Celebration to be held on June 30, 2018 with a rain date of July 1, 2018.

PERSONNEL:

Current Vacancies:

Affordable Housing Board (2 – 2 year terms ending July 11, 2019)  
Partners in Prevention (1 – 3 year term ending December 31, 2019)  
Partners in Prevention (1 – 3 year term ending December 31, 2020)  
Partners in Prevention (2 – 3 year terms ending December 31, 2021)  
Parks and Recreation Board (3 – 3 year terms ending March 9, 2021)  
Architectural Review Board (1 – 3 year term ending March 31, 2021)

Upcoming Vacancies:

Retirement of  
G. Ludermann

The Supervisor said that it was in order for the Board to acknowledge the retirement of Mr. Gary Ludermann as Motor Equipment Operator, Highway Department effective May 30, 2018. He stated that Mr. Ludermann was a valued employee and they congratulated him on his retirement.

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

RESOLVED, that the Town Board does hereby acknowledge the retirement of Mr. Gary Ludermann as Motor Equipment Operator of the Highway Department effective May 30, 2018

APRIL 12, 2018 – REGULAR MEETING

Consensus  
Agenda

The next item was with regard to the consensus agenda. The Supervisor said with regard to item number 3, he wanted to accept with gratitude the Women’s Club Day Camp Scholarships.

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

Execute IMDA  
for  
Infrastructure  
Improvements  
at 16 Route 6.

- 1a. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the C-HIF-15-65 – First Amendment to the Inter-Municipal/Developer Agreement for the Infrastructure Improvements at 16 Route 6.

Execute IIC-1,  
IIC-2 and  
corresponding  
NSIP funding  
contracts

- 1b. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the IIC-1, IIC-2 and corresponding NSIP funding contracts for period beginning January 1, 2018 and continuing through December 31, 2018 per memo dated March 12, 2018 from Barbara Taberer, Nutrition Program Director.

Execute IIB  
Transportation  
Services  
Contract, PY  
2018

- 1c. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the IIB Transportation Services Contract, PY 2018 per memo dated March 26, 2018 from Barbara Taberer, Nutrition Program Director.

Execute Stormwater  
Management Facilities  
Maintenance  
Agreement between  
Urstadt Biddle  
Properties Inc.

- 1d. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Stormwater Management Facilities Maintenance Agreement between Urstadt Biddle Properties Inc. and the Town of Somers per email dated March 27, 2018 from Roland Baroni, Town Attorney.

Execute three  
(3) year  
Agreement with  
City Carting,  
Inc. for garbage  
and recycling  
pickup

- 1e. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute a three (3) year Agreement with City Carting, Inc. for garbage and recycling pickup at the Parks two (2) locations, Town Hall and Highway for a total monthly charge of \$1,578.51 (to be billed separately beginning April 13, 2018 through April 12, 2020 per memo dated March 28, 2018 from Efreem Citarella, Building Inspector.

2018  
Summer  
Camp Trips

2. RESOLVED, that the Town Board does hereby approve going to bid for Summer Camps Trip Transportation per memo dated March 23, 2018 from Steven Ralston, Superintendent of Parks and Recreation.

Somers  
Woman’s  
Club  
Donation

3. RESOLVED, that the Town Board does hereby accept with gratitude a \$2,500 donation from the Somers Women’s Club to provide scholarships for Day camp participants per memo dated March 23, 2018 from Steven Ralston, Superintendent of Parks and Recreation.

Accept Erosion  
Control Bond

4. RESOLVED, that the Town Board does hereby accept the following Erosion Control Bonds per memo dated April 3, 2018 from Wendy Getting, Senior Office Assistant:

a. \$2,144.00 – Mitchell Subdivision – TM: 16.09-1-9

Contract for  
Town House  
Generator

5. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute an annual Maintenance Contract for the Town House generator with Light Electric in the amount of \$800.00 per year per memo dated March 27, 2018 from Efreem Citarella, Building Inspector.

Employee  
Safety  
Manual

6. RESOLVED, that the Town Board does hereby adopt the final version of the Town of Somers Employee Safety Manual dated April 12, 2018.

APRIL 12, 2018 – REGULAR MEETING

Reappointment  
R. Nash ARB

7. RESOLVED, that the Town Board does hereby authorize the reappointment of Mr. Richard Nash member of the Somers Architectural Review Board to a three (3) year term ending March 31, 2021.

Reappointment  
J. Papalia & K.  
Westerman  
Parks & Rec

8. RESOLVED, that the Town Board does hereby authorize the reappointments of Mr. John Papalia member of the Somers Parks and Recreation Board to three (3) year terms ending March 9, 2021.

RESOLVED, that the Town Board does hereby authorize the reappointments of Mr. Kevin Westerman member of the Somers Parks and Recreation Board to three (3) year terms ending March 9, 2021.

RFP  
Office  
Building  
Cleaning

9. RESOLVED, that the Town Board does hereby authorize the distribution of a Request for Proposal (RFP) for office/building cleaning services per memo dated March 27, 2018 from Efreem Citarella, Building Inspector.

Authorize hire  
Park Foreman

10. RESOLVED, that the Town Board does hereby authorize hiring of a Park Foreman in the Parks and Recreation Department.

The Supervisor read a memo he received from Chief Driscoll that week with regard to an Effort and Awareness Program for individuals with Autism. He explained that all Police Vehicles during the Month of April would have Autism Awareness Decals on them. He stated that the purpose was to raise public awareness about Autism and to support Public Safety Response when dealing with people with Special Needs.

The Supervisor said that the Somers Annual Spring Town-Wide Clean Up began Sunday, April 1, 2018 through Thursday, May 31, 2018. "Official" orange garbage bags and gloves would be available at Somers Town House and Somers Library. He said that gloves and bags would also be distributed at the Somers Lions Club Community Breakfast.

The Supervisor said that Somers Lions Club Community Breakfast would be held Sunday, April 15, 2018 from 8:00 AM to 12:00 PM at the Somers High School Cafeteria, 120 Primrose Street. Tickets: \$8 Adults and Children under 3 years old are free. He said that a portion of the proceeds would fund scholarships for needy children to attend the Town of Somers Summer Day Camp, Somers Youth Sports Organization and the Somers Lions Charitable Foundation.

The Supervisor said that the Somers Women's Club Blood Drive was Saturday, April 21, 2018 from 9:00 AM to 3:00 PM at the Somers High School Cafeteria.

The Supervisor said that Somers Recycling Day would be held Saturday, April 21, 2018 from 9:00 AM to 2:00 PM at the Somers Intermediate School Parking Lot, a \$5.00 donation was suggested per car and all proceeds went to the Somers PTA.

The Supervisor said that there was a special performance of Antioch Baptist Choir to benefit "Drug Crisis In Our Backyard" on Saturday, April 21, 2018 at 6:00 PM at Saint Luke's Church. He said that free tickets can be reserved and all donations would go directly to "Drug Crisis In Our Backyard".

The Supervisor said that the Somers Land Trust was holding an event on Earth Day. Sunday, April 22, 2018 from 10:00 AM to 12:00 PM at Rhinoceros Creek Reservation.

The Supervisor said that the New York State Public Service Commission (PSC) was having a public hearing with regard to the March 2018 Winter Storms and Related Power Outages on Monday, April 23, 2018 at 6:00 PM at the Somers Middle School Auditorium.

APRIL 12, 2018 – REGULAR MEETING

The Supervisor said that the Somers Veterans of Foreign Wars was looking for volunteers to replace flags on Veterans graves on Thursday, May 3, 2018. He said that they would be meeting between 5:00 PM and 5:30 PM at the Ivandell Cemetery.

The Supervisor said that the Mobile Shredder was coming to Somers on Friday, June 1, 2018 from 10:00 AM to 1:00 PM at Reis Park.

Councilman Faulkner said that he wanted to recognize Holocaust Remembrance Day.

Councilman Faulkner said that he wanted to thank the Supervisor for providing Certificates for all of the Cub Scouts who graduated to Boy Scouts.

Claims for the payment of all Town Bills in the amount of \$ 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 Morrissey, seconded by Councilman Clinchy, the meeting was adjourned at 8:20 PM.

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Town Clerk