

**TOWN OF SOMERS  
BOARD OF SELECTMEN  
REGULAR MEETING MINUTES  
Thursday, November 15, 2012  
6:00pm  
Selectmen's Conference Room**

**Call to Order:** First Selectman Lisa Pellegrini called the meeting to order at 6:00pm.

**Members Present:** First Selectman Lisa Pellegrini, Selectmen Kathy Devlin and Bud Knorr. Also in attendance was CFO Kim Marcotte.

**Pledge of Allegiance:** All members participated in the Pledge of Allegiance.

**Selectmen's Update:**

**Town Hall Front Doors:**

Mrs. Pellegrini informed the Selectmen that the new Town Hall front doors are now being installed.

**Elected Constables:**

Mrs. Pellegrini shared with the Selectmen information regarding elected constables. She was notified by the Town Clerk that elected constables were eliminated during the last Charter Revision in 2006, however the change was never implemented. Mrs. Pellegrini passed on the information to the Town Attorney and has now received an opinion on how to proceed. The opinion letter was distributed to the Selectmen. See Attachment #1.

*Mr. Knorr made a motion to have the Board of Selectmen prepare an ordinance in accordance to the recommendation by the Town Attorney regarding the Election/Appointment of Constables, seconded by Mrs. Devlin. A unanimous vote followed.*

**Fire Truck:**

The Board of Selectmen discussed the Fire Truck apparatus intent to purchase agreement between the Town of Somers and 4 Guys Inc. Mrs. Pellegrini will vet both the intent to purchase agreement and the final sales contract with the Town Attorney before signing.

*Mr. Knorr made a motion to choose vendor 4 Guys Inc. as the winning bid for the two fire trucks, seconded by Mrs. Devlin. A unanimous vote followed.*

**Somersville Bridge Earmark:**

Mrs. Pellegrini received an email from Jennifer Carrier of the Capital Region Council of Government (CRCOG) explaining the Connecticut Department of Transportation (DOT) has given CRCOG paperwork for the \$500,000 (from the previous Earmark money) for Preliminary Design of the Maple Street Bridge. The CRCOG Policy Board voted to approve the project on November 14<sup>th</sup>. Ms. Carrier will be passing on the CRCOG Policy Board Approval to DOT and DOT will then forward the info to FHWA for final processing. The Selectmen congratulated Mrs. Pellegrini on her efforts with this project.

**Recording Secretary:**

Mrs. Pellegrini made a recommendation to the Board of Selectmen to hire Ms. Catherine Morrow as a part time recording secretary starting at \$11.00 an hour. She will begin by taking the minutes for the Board of Finance.

*Mrs. Devlin made a motion to hire Ms. Catherine Morrow as a part time Recording Secretary, seconded by Mr. Knorr. A unanimous vote followed.*

**Budget Handout:**

Budget handouts were given to the Board of Selectmen by the CFO for review.

**Opportunity to add Agenda items:**

Mrs. Pellegrini wished to add approval of minutes from 10/18/12, 10/23/12, 11/1/12 and 11/8/12 to the agenda.

*Mrs. Devlin made a motion to approve the Regular BOS Minutes from 10/18/12, seconded by Mr. Knorr. A unanimous vote followed.*

*Mrs. Devlin made a motion to approve the Special BOS minutes from 10/23/12, the Special BOS minutes from 11/1/12 and the Special BOS minutes from 11/8/12, seconded by Mrs. Pellegrini. The motion passed.*

**Boards and Commissions: Cemetery Commission**

*Mr. Knorr made a motion to appoint Ms. Patricia Loftus to the Cemetery Commission to replace a vacancy left by Ms. Irene Percoski with a term ending 12/22/2012, seconded by Mrs. Pellegrini. A unanimous vote followed.*

**Authorization of Scheduled Payments:**

*Mrs. Devlin made a motion to approve the authorization of scheduled payments in the sum of \$61,958.66, seconded by Mrs. Pellegrini. A unanimous vote followed.*

**Transfers/Appropriations: None**

**Adjournment:**

*Mrs. Devlin made a motion to adjourn the Board of Selectmen meeting at 6:40pm, seconded by Mr. Knorr. A unanimous vote followed.*

Respectfully Submitted,

Kim LaFleur-Recording

*Minutes are not official until accepted at a subsequent meeting.*

ATTACHMENT #1

## Fahey & Landolina, Attorneys LLC

*A Connecticut Limited Liability Company*

Thomas W. Fahey, Jr.  
Carl T. Landolina

487 Spring Street  
Windsor Locks, Connecticut 06096  
Telephone: (860) 627-8300  
Facsimile: (860) 627-6817  
EMail: tom@faheyland.com  
carl@faheyland.com

November 12, 2012

Honorable Lisa Pellegrini  
Town of Somers  
600 Main Street  
Somers, CT 06071

### Re: Election/ Appointment of Constables

Dear Lisa:

At your request I have reviewed state statutes and the charter regarding the position of constables. As you are aware, the position of constable has a long tradition in New England towns including Somers. For as long as this office has been representing the Town, constables have been elected at municipal elections. In the 2006 charter revision, the position of constable was removed from the charter. I have reviewed my file on the 2006 charter revision and I do not see any communication from the charter revision commission on this subject. I can only assume that I was not asked for, nor did I give, an opinion on this matter.

It would appear that with the removal of the position of constables from the charter it was intended that constables cease to be elected officials within the town. I say "appear" because as I understand it constables have continued to be elected at every municipal election since the 2006 charter revision. This "situation" is further complicated by the fact that the town has appointed "local peace officers" to assist the state police in their duties in town.

In reviewing the state statutes for references to constables, I find two relevant provisions. C.G.S. § 9-200 provides that "each town shall elect, at its regular municipal election, unless otherwise provided by law and except as provided in section 9-185, not more than seven constables..." (emphasis added). C.G.S. § 9-185 provides that "unless otherwise provided by special act or charter, assessors, members of boards of assessment appeals, selectmen, town clerks, town treasurers, collectors of taxes, constables... shall be elected, provided any town may, by ordinance, provide for the appointment, by its chief executive authority of (1) a constable or constables in lieu of constables to be elected under section 9-200..."

Reading the two sections together it is my opinion the town may not completely eliminate constables as public officials. While a reasonable argument can be made that the power to appoint or elect "not more than seven constables" necessarily includes the power to appoint or elect no constables, I do not think this was the intent of these two sections. In my opinion, the import of these sections is to permit towns to choose between electing or appointing constables, not to eliminate them entirely.

Therefore, one interpretation of the charter commission's action in 2006, and the town's approval of that action, is that constables were thereafter to be an appointed rather than elected position. I am not aware that any ordinance, as provided in Section 9-185, was adopted to fill in the gap left by the elimination of constables from the charter. I would suggest that, prior to the 2013 municipal election the Board of Selectmen address this issue by adopting an appropriate ordinance.

As to the constables elected at the 2011 municipal election, they will continue to serve until a new ordinance is adopted and their terms expire. As to their specific duties, I would concur with Attorney Mack's prior opinion on the issue. Despite the fact that the opinion is now over 30 years old it remains viable. The constables elected in 2011 have no specific duties or authority until and unless you so provide.

As to those individuals "appointed" by you to assist the state police, you have given those individuals specific authority to act as peace officers and they remain as such. It would appear to me that as a practical matter these individuals are your modern-day constables and I would suggest that any ordinance you adopt on this subject reflect their status.

If you have any questions regarding this matter do not hesitate to contact me.

Very Truly Yours,



Carl T. Landolina