

TOWN BOARD  
SEPTEMBER 11, 1991

A public hearing of the Town Board of the Town of Bethlehem was held on the above date at the Town Hall, 445 Delaware Avenue, Delmar, NY. The meeting was called to order by the Supervisor at 7:30 p.m.

PRESENT: Kenneth J. Ringler, Supervisor  
 Frederick C. Webster, Councilman  
 M. Sheila Galvin, Councilwoman  
 Charles Gunner, Councilman  
 Sheila Fuller, Councilwoman  
 Bernard Kaplowitz, Esq., Town Attorney  
 Ed Lange, NYS Theatre Institute  
 Ann Reardon, Progress Club  
 Frederick Holligan, Chairman, Traffic Safety Committee  
 Charles Herr, Traffic Safety Committee  
 Philip Maher, Comptroller  
 Jeffrey Lipnicky, Town Planner  
 Bruce Secor, Commissioner of Public Works  
 Ann Raynor  
 Hazel TeRiele  
 Suzanne Capone  
 John Thomas  
 Liz McCoy  
 James T. Googas  
 Mary Googas  
 Edward Fineberg, Esq., Greenshade Consortium Counsel  
 Ilana Jonas, Times Union Representative  
 Kathy Keenan, The News Herald Representative  
 Kathleen A. Newkirk, Deputy Town Clerk

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Supervisor Ringler called the meeting to order at 7:30 p.m. indicating it is a regular meeting of the Bethlehem Town Board. The first item on the agenda, according to Supervisor Ringler, is a public hearing for the proposed amendment to the Traffic Ordinance of the Town of Bethlehem for a speed limit of 35 miles per hour on the entire length of Beaver Dam Road in Selkirk. The Supervisor asked the Deputy Town Clerk to read the call of the hearing.

Public  
 Hearing  
 Amendment  
 to Traffic  
 Ordinance -  
 Speed Limit  
 Beaver Dam  
 Road

NOTICE OF PUBLIC HEARING  
 ON PROPOSED AMENDMENT TO THE  
 TRAFFIC ORDINANCE OF THE TOWN OF BETHLEHEM

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Town of Bethlehem on the 11th day of September, 1991 at 7:30 p.m. to consider amending the Traffic Ordinance of the Town of Bethlehem in the following respect:

1. Amend ARTICLE II, SPEED LIMITS, Section 1 (b) Thirty-five Miles per Hour, by adding a new paragraph six (6) to read as follows:
6. Beaver Dam Road over its entire length.

All interested persons and citizens will have an opportunity to be heard at said meeting.

BY ORDER OF THE TOWN BOARD  
 TOWN OF BETHLEHEM  
 CAROLYN M. LYONS  
 TOWN CLERK

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STATE OF NEW YORK)  
 COUNTY OF ALBANY)

Kathryn Olson of the Town of Bethlehem, being duly sworn, says that she is the bookkeeper of THE SPOTLIGHT, a weekly newspaper published in the Town of Bethlehem, County of Albany, and that the notice of which the annexed is a true copy, has been regularly

published in said THE SPOTLIGHT once a week for 1 week consecutively, commencing on the 28th day of August 1991.

/s/ Kathryn Olsen

Sworn to before me this 3rd day of  
September, 1991.  
/s/ Bruce A. Neyerlin  
Notary Public, Albany County

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STATE OF NEW YORK)  
COUNTY OF ALBANY) ss:

CAROLYN M. LYONS, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on August 28, 1991, a Notice of Public Hearing, a copy of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Carolyn M. Lyons

Sworn to before me this  
29th day of August 1991.  
/s/ Kathleen A. Newkirk  
Notary Public, Albany County

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The motion was made by Ms. Galvin and seconded by Mr. Webster that the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting Notice be indented on the minutes of the Public Hearing. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

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Supervisor Ringler indicated there is a recommendation from the Traffic Safety Committee based upon a petition from residents of the Beaver Dam Road area. The residents had requested that the speed limit be reduced to 30 miles per hour on Beaver Dam Road from Route 396 to the railroad tracks, according to Supervisor Ringler, and the following memorandum was read.

MEMORANDUM

DATE: July 18, 1991  
TO: Honorable Kenneth Ringler, Supervisor  
FROM: F.J. Holligan, Chairman, Traffic Safety Committee  
SUBJECT: Speed Limit Reduction Petition, Beaver Dam Road TSC-91004

The Traffic Safety Committee has reviewed a petition from the residents of Beaver Dam Road for a reduction in the speed limit on Beaver Dam Road, from Route 396 to the railroad tracks, from the present 40 mph to 30 mph. The residents complain of vehicles traveling at high rates of speed over this roadway and they have provided photographs showing damage to lawns and property caused by vehicles running off of the roadway.

As a result of our investigation into this matter, the committee recommends as follows:

1. Reduce the speed limit, over the entire length of Beaver Dam Road, from the present 40 mph to 35 mph.
2. Increased enforcement of the Vehicle & Traffic Laws by the Police Department.
3. A Highway Department review of the existing traffic control signage along the roadway.

The above recommendations are based on:

1. An increase in population density along Beaver Dam Road.
2. The results of an electronic speed survey, conducted on this road, which support the residents complaints of a speeding problem.

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Supervisor Ringler said the format for the hearing is first the Board can ask any questions that they might have and then any general questions of the public. He said the Chairman of the Traffic Safety Committee is in attendance to answer any questions and then after that, anyone wishing to speak in favor or opposition may do so. First, the Supervisor said he had a question, indicating that some of the residents had asked these questions first. Supervisor Ringler asked why not go to 30 mph. Chairman Holligan said this was discussed very thoroughly and they feel that if it is lowered any more than 35 mph that people just are not going to obey it anyway. He said they further feel this would just increase violators rather than control the speed problem.

Supervisor Ringler said he would ask some of the questions that have been posed to him before the meeting. He asked about the 30 mph speed limit on Clapper Road, Wemple Road and what the difference is between those particular roads and Beaver Dam Road. He further asked if there was an engineering difference or something along these lines. Mr. Holligan said he did not know how the speed limit got down to 30 on the other roads. Supervisor Ringler said it was done by Town ordinance at some point in time but it did not go through the Traffic Safety Committee. Mr. Holligan said if the limit is reduced to 30 mph there will be more of a problem because they are having a tough time now trying to get people to comply with the 40 mph speed limit. He said if it is taken down to 30 mph the Committee does not feel there will be any compliance.

Supervisor Ringler asked the residents in attendance if there were any questions at this point. Mrs. Ann Raynor said as one comes off of Route 396 the speed limit is 30, coming onto Beaver Dam Road it is 35. Mr. Holligan said Route 396 is a State road and the limit was set by the State DOT. He said the Committee feels -- to repeat himself -- if the limit is posed at 30 mph, there is not going to be compliance with the speed limit anyway. He said there will be more people violating the law. He said they feel 35 is more reasonable and that there is a likelihood of better compliance at 35 than 30. He said they feel it will bring the overall speed down. He said it was the position of the Committee to recommend 35 mph.

Mrs. Hazel TeRiele said she thinks if you put it at 35 they are going to drive 45, if you put it at 30 they will drive 40. She said people drive almost 10 miles over the limit. Mrs. TeRiele said if it is posted at 30 and they drive 40 she will still have the same problem. She further stated it was her yard they ran into and took the mailbox and the two mailboxes next door out, one on the other side and the residence across the street had a picnic table completely out. She said one of the Police officers were there for that incident and they were there for the mailbox when the lady threw the mailbox up over the fence and onto her car. She said she just thinks if the limit is going to go down, she does not see why it cannot be put at 30 because they are going to drive 40 anyway. She said if the limit is 35, they will drive 45. Chairman Holligan said they feel if it is at 35 the people will drive at 40 to 45 mph. He said if you put it at 30, they will still drive 40 to 45. Mrs. TeRiele said people will always go 10 miles over the limit. Mr. Holligan said the Committee does not feel you will get them to go less than 35 mph.

Supervisor Ringler explained the Town-wide speed limit, unless otherwise posted, is 30 mph and asked Chairman Holligan if there is a difference on Beaver Dam Road from other residential roads in the Town that should make that 5 mph more than the general roads. Chairman Holligan said it is not as heavily populated to start with as is true in the village area. Mrs. TeRiele said from Route 396 to the railroad tracks there are 25 houses besides going into Olsen's. She said there are two new ones that are occupied. Chairman Holligan said this was one of the reasons that they based their recommendations and

lowered the speed limit by 5 mph, is because of the increase in density on the roadway. Mr. Holligan said if it was not for that fact, he feels there would have been a tough time getting the Committee to go along with the 5 mph reduction. Mrs. TeRiele asked why the speed limit is 30 on Clapper and 30 on Wemple, there are no houses. She said she did not understand this. Mr. Holligan said the Traffic Safety Committee had nothing to do with setting the speed limits there. Mrs. TeRiele said someone must have done it. Supervisor Ringler said the Town Board would have done it on the Town roads. Chairman Holligan said that is 30 probably because of the ordinance that was passed a couple years ago making the 30 mph speed limit in the Town unless it was posted. Supervisor Ringler said he did not know the history but indicated that if at some point it was increased to 40 over and above the normal Town speed limit on Beaver Dam Road for some reason... Chairman Holligan said it has been 40 mph. Mrs. TeRiele said it has been 40 a long time indicating it was 50 and then a petition was submitted to make it 40. Mrs. Raynor said she did know the next door neighbor had his children playing in the driveway and another fellow said to him -- John next door -- he was only doing 35 when the ball ran into the road. He came into her side yard, she said, stating thank God it was her side yard and not one of the kids. She said he saw the ball, reacted and came into her side yard. She further stated the damage that was done to the lawn can still be seen because it has ruts in it. She said this was at 35 and it could have been a child.

Chairman Holligan said basically, what he is saying is that you can legislate any speed that you want but people are still going to drive at the speed that they feel comfortable driving on the road with. He further said the only way to make any kind of impact whatsoever, is to put it to 30 and have a police officer there 24 hours a day, which is something that cannot be done. Mrs. Raynor said she knows when she sees a 30 mph, it makes her stop and think there is a reason for this so she will slow down. She also noted she knows a lot of people do not. She said when you see it, okay let's do it. Chairman Holligan said with the speed count, there are people going over that road over 60. Mrs. TeRiele said this is what she is saying. Chairman Holligan said a 30 mph speed zone is not going to have any effect, whatsoever, on the person that would drive 60 in a 40 mph zone. Mrs. TeRiele said there is something wrong when you can sit there and say that.

Supervisor Ringler asked if the Board has any other questions at this point. Councilman Webster asked if there has been any problem with compliance with 30 on the other two roads. Chairman Holligan said there are complaints of speeding. Councilman Gunner said the reasoning is then that we feel that they won't comply and would take a great deal of supervision by our Police Department over a long period of time. Mrs. Raynor asked if Clapper and Weisheit are being supervised. Chairman Holligan said they are, they move around with the radar all the time, indicating they get requests every single day for speed control for almost every street in Town. Mrs. Raynor said she does know they are down Beaver Dam Road because she has seen the car. Chairman Holligan said they try to cover it as much as possible, you know, for a while they concentrated on Beaver Dam Road but then you have to move onto the next place. Mrs. Raynor said it is just too bad that you have two roads, indicating she meant that is how the roads run, side by side. Chairman Holligan said he believes that is how that got a 30 mph speed limit is when the ordinance was passed a few years ago because that did not go through the Traffic Safety Committee. Supervisor Ringler said Beaver Dam had been posted for 40 prior to the passage of the Code. He said anything that was posted higher, according to the Deputy Town Clerk, stayed at the higher rate. Chairman Holligan said it was lowered on Elm Avenue South, the speed limit was 40 mph there and had the same problem as these people are experiencing on Beaver Dam Road. He said that was lowered to 35 and it seems to have helped a great deal. He said the traffic engineering consultant is in attendance and he had a lot of input into the meeting.

Supervisor Ringler asked Mr. Herr if he had anything to add to this discussion. Mr. Herr said first of all people have a great misconception of what speed limits will do. He said you always hear the statement they are always going to drive 10 mph above the speed limit. He said this is a complete misconception. Mrs. TeRiele said a lot of them do. She said they see a speed zone and think I can go 10

mph over it, I am all right. Mr. Herr said some of them go 30 mph above it, 40 mph above it, some of them will not exceed it. He said it is not the speed limit that does this, it is what the motorist sees at the time as he is driving on the highway. He said it is the width of the road, the curves, the alignment, the activity along the road. He said there may be times when 10 mph is too fast on Beaver Dam Road, for portions of it, other times there is nothing wrong with 60 because there is no one around. He said if you drive the Northway, as an example, the speed limit is 55, right -- how many people drive 55 or below. They have almost a 95 percent noncompliance with the speed limits, according to Mr. Herr, on the Northway. He said it shows that a speed limit, per se, is a number, it does not get you anywhere. The worst thing that can be done for motorists in general, Mr. Herr said, is to have unrealistically low speed limits. He said what this does is create a complete disregard for all the speed limits and they ignore them all.

Mr. Herr noted the State lowered the speed limit on Route 396 to 30 mph, they did that because they gave into the people. He feels the State does not really think that is the right speed limit for Route 396 and it really is too slow if you watch the traffic going along Route 396 when you get down toward the Selkirk built-up area and they slow up because of the curves. He said there was, based upon a speed check with the 40 mile limit, 85% were in violation of 40 mile limit indicating -- saying he did not remember exactly -- by lowering the speed limit to 35, what you are going to do is increase the number of violators. He said you will really not affect very much the actual speeds on the road, believe him. Chairman Holligan said if you set unreasonable restrictions, people are not going to follow them.

Mr. Herr said if you go down to 30, there will be even a greater percentage of violations and probably less compliance than you would for 35. His recommendation, he said, after looking at the speed tracks and the road, was to retain the 40 indicating 40 for parts of the road is actually too low as it is. He said there is a group of homes, maybe 2-3/10s of a mile where you have some dense development, beyond that they are pretty well spread out. The State, according to Mr. Herr, has all kinds of criteria for setting speed limits. He said there is probably only 3-4/10s of a mile section on Beaver Dam Road that would comply to a lower speed limit if you go back to the State standards. He said he knows it is hard for people to accept, because everybody would like a 10 mph speed limit on their street in front of their house but on Ken's street they do not mind going 40 or 45 because that is Ken's street. He said this is found everywhere because he has been all over the State speaking on speed limits. He said this is the kind of reaction they get. He further indicated what is being said is no different than he has heard in Buffalo, Long Island or any place else. Mr. Herr said there is a big misconception of the value of speed limits. He said they serve a certain purpose, they give the Police Department a level for reasonable enforcement. He said if it gets too low, it cannot possibly take care of it, unless you put someone on the street 24 hours a day with the radar, then maybe, maybe they would get some compliance but even then they would not. If everyone complied with speed limits that are posted, according to Mr. Herr, they would not give out any tickets. The fact they give out tickets, he further stated, is because people do not comply with speed limits. He said he did not know of anything else he could say but really, in his professional opinion -- he has been involved with speed limits all over the place with an attempt to get them raised to realistic limits -- probably realistic limit for most part of Beaver Dam Road is probably 40 or even 45 except for a very short section of it which maybe could be justified at 30 mph for 1/2 a mile or something like that. Mrs. TeRiele said that is what she is saying, Route 396 to the railroad tracks. Mr. Herr said that is more than 1/2 a mile. Mrs. TeRiele stated there are 25 occupied houses on there. Mr. Herr said they are spread out, he indicated he has a count on them but there was maybe 2 or 3/10s of a mile where you had some density but at any rate, a short piece of 30 with the rest of it 40 or 45 would make more sense to him for realism rather than to have 35 for the whole length because there are portions of it where 35 is much too low. He said this is because the 40 is low. The other thing he can tell from experience is -- when he worked for the State, they used to set speed limits in villages and towns, they would raise the speed limit by 30 mph and the speeds would not change a bit. Mrs. TeRiele indicated there is

something wrong with the system when you can think that way too. Mr. Herr said no, it is not the system, it is the people. Mrs. TeRiele indicated if you live where they live and you always have this constantly... Chairman Holligan said we have that all over Town. Mr. Herr said if you are talking about safety, you are not going to really gain safety by just artificially lowering the speed limit. He said it just does not happen because you do not get the results that you are hoping for. He said in the realistic world... Mrs. TeRiele said she was sure it would get some of them.

Supervisor Ringler asked if there were any questions by the Board. Hearing none, he asked if anyone wished to speak in favor of the proposal of the Traffic Safety Committee. There were none. He then asked if anyone wished to speak in opposition. Supervisor Ringler said he believed Mrs. Raynor and Mrs. TeRiele had already stated, for the record, that they are in opposition. Mrs. Raynor said she thought they had. Supervisor Ringler asked if there were any other comments.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to close the public hearing at 7:50 p.m. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

*Kathleen A. Newbark*  
Deputy Town Clerk

Supervisor Ringler convened the regular meeting following the public hearing, asking if the Board would like to think about this proposal and discuss it at the next meeting. The Board was in agreement with the Supervisor to discuss this at the next meeting. Supervisor Ringler stated the Board will consider this and it will be placed on the agenda of September 25, 1991 for a decision.

Mr. Herr said he had a question of activity -- he said the proposal is to change the ordinance to put Beaver Dam Road in the 35 mph section. Supervisor Ringler said this is what the Committee recommended. Mr. Herr said that is what the amendment to the ordinance does. He asked if there was also provision to repeal the 40 that is out there now -- asking if they had taken that into consideration because there must be a 40 on the books somewhere. Supervisor Ringler said this would do that, change that section of the code. Mr. Herr said he is not sure but what he is saying is that presently he thinks it is under 40, so if you do not repeal that portion you are going to have two speed limits on Beaver Dam Road. Supervisor Ringler indicated this will be taken care of.

Supervisor Ringler noted that the consensus of the Board is to give some thought to the comments made and it will be placed on the next agenda for consideration and decision. He thanked everyone.

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Supervisor Ringler called the public hearing to order at 8:52 p.m., indicating this was for an amendment to the Traffic Ordinance of the Town of Bethlehem for a Stop Intersection at the intersection of Catherine and Pheasant in Delmar. He asked the Deputy Town Clerk to read the call of the hearing.

NOTICE OF PUBLIC HEARING  
ON PROPOSED AMENDMENT TO THE TRAFFIC ORDINANCE  
OF THE TOWN OF BETHLEHEM

Public Hearing  
Amendment  
to Traffic  
Ordinance -  
Stop Sign  
Catherine  
St. &  
Pheasant  
Lane

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Town of Bethlehem on the 11th day of September, 1991 at 7:45 p.m. to consider amending the Traffic Ordinance of the Town of Bethlehem in the following respect:

1. Amend ARTICLE I, STOP INTERSECTIONS, by adding a new paragraph hhhh to read as follows:

(hhhh) The intersection of Catherine Street and Pheasant Lane with the Stop Sign to be erected on Catherine Street.

All interested persons and citizens will have an opportunity to be heard at said meeting.

BY ORDER OF THE TOWN BOARD  
TOWN OF BETHLEHEM  
CAROLYN M. LYONS  
TOWN CLERK

Date: August 28, 1991

Sworn to before me this 3rd  
day of September, 1991.  
/s/ Bruce A. Neyerlin  
Notary Public, Albany County

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STATE OF NEW YORK)  
COUNTY OF ALBANY) ss:

CAROLYN M. LYONS, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on August 28, 1991, a Notice of Public Hearing, a copy of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Carolyn M. Lyons

Sworn to before me this  
29th day of August, 1991.  
/s/ Kathleen A. Newkirk  
Notary Public

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The motion was made by Ms. Galvin and seconded by Mr. Webster that the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting Notice be indented on the minutes of the Public Hearing. The motion was passed by the following vote:

Ayes: Mr.Ringler, Mr.Webster, Mr.Gunner, Ms.Galvin, Mrs.Fuller.  
Noes: None.

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Supervisor Ringler read the following memorandum from the Traffic Safety Committee.

MEMORANDUM

DATE: July 19, 1991  
TO: Honorable Kenneth Ringler, Town Supervisor  
FROM: F.J. Holligan, Chairman, Traffic Safety Committee  
SUBJECT: Traffic Control Petition, TSC-91-007

The Traffic Safety Committee has reviewed a petition from the residents of Parkwyn Drive, Pheasant Lane, Catherine Street area requesting traffic control devices as follows:

1. A stop sign on Catherine Street at Pheasant Lane
2. A stop sign on Parkwyn Drive at Pheasant Lane

After much consideration, the committee recommends:

1. The installation of a stop sign on Catherine Street at Pheasant Lane. This is a "T" intersection and measurements taken at the location support the need for a stop sign.
2. That no stop sign be installed on Parkwyn Drive at Pheasant Lane. Parkwyn Drive is a through street and the intersection is already controlled by a stop sign on Pheasant Lane at Parkwyn Drive.

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Supervisor Ringler asked if anyone had any questions regarding this proposal. Councilwoman Fuller said she had two questions. One question Mrs. Fuller had was whether the trimming of the shrub around the sign that is presently there on Pheasant Lane has been done. Supervisor Ringler said he asked Mr. Sagendorph from the Highway Department to go out and look at it. Chairman Holligan stated the trimming has been done. Mrs. Fuller next asked -- in regard to the children at play sign that the lady who was in attendance at the previous meeting had a suggestion about -- if the sign has been moved. Supervisor Ringler said it has not been moved as yet. He said the proper placement is being discussed and a decision will be made. He further said Mr. Sagendorph asked that he go out and look at it with him. Mr. Ringler said he planned to do this in the next couple of days, indicating it has not been taken care of as yet. Councilwoman Fuller thanked Supervisor Ringler.

Supervisor Ringler asked if anyone wished to speak in favor of this proposal. Hearing none, he asked if anyone wished to speak in opposition to this proposal. No one spoke.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to close the public hearing at 8:55 p.m. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

*Kathleen A. Newkirk*  
Deputy Town Clerk

Supervisor Ringler reconvened the regular meeting of the Town Board and asked the Board, since no one has spoke in favor or opposition, if the Board would like to take action on the recommendation of the Traffic Safety Committee. The following resolution was offered for adoption.

The Town Board of the Town of Bethlehem, Albany County, NY does hereby amend the Traffic Ordinance adopted on the 17th day of July, 1968 and last amended on the 22nd day of May, 1991, as follows:

I. Amend ARTICLE I, STOP INTERSECTIONS, by adding a new paragraph hhhh to read as follows:

(hhhh) The intersection of Catherine Street and Pheasant Lane with the Stop Sign to be erected on Catherine Street.

The foregoing amendment to the Traffic Ordinance was presented for adoption by Ms. Galvin, was seconded by Mr. Gunner and was duly adopted by the following vote:

Ayes: Mr.Ringler, Mr.Webster, Mr.Gunner, Ms.Galvin, Mrs.Fuller.  
Noes: None.

Dated: September 11, 1991.

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WHEREAS, the Town Board has adopted an amendment to the Traffic Ordinance of the Town of Bethlehem, and it is necessary that the said amendment be published, according to law,

NOW, THEREFORE, BE IT RESOLVED, that the said amendment be published in THE SPOTLIGHT, a newspaper published in the County of Albany and having a circulation in the Town of Bethlehem on the 18th day of September 1991.

The foregoing resolution was presented by adoption by Ms. Galvin, was seconded by Mrs. Fuller and was duly adopted by the following vote:

Ayes: Mr.Ringler, Mr.Webster, Mr.Gunner, Ms.Galvin, Mrs.Fuller.  
Noes: None.

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Supervisor Ringler indicated the next public hearing is not scheduled to start for another 5 minutes and moved to the next item on the agenda. He said this is a request from Mr. Ed Lange, Associate Artistic Director of the NYS Theatre Institute for a Town Board resolution supporting the NYS Theatre Institute against proposed budget cuts by the State of New York. Mr. Ringler noted Mr. Lange is a resident of the Town and is in attendance. Supervisor Ringler said Mr. Lange had contacted him months ago asking if a letter could be written to SUNY asking them to try to put these funds back into their budget because this group services many of the residents. He said the schools take part in a lot of their programs and it has been quite a benefit to the communities. He further said since that time many of the other area municipalities including the City of Albany and Guilderland passed a resolution supporting them and they are asking the Town Board of the Town of Bethlehem to pass a resolution now that would go down to the State University.

Supervisor Ringler asked Mr. Lange if he wished to add anything to this. Mr. Lange said if there were any questions he would be happy to answer them. He said it is not only the schools of the Bethlehem area that use the Theatre Institute programs and he has interestingly made a list of all the schools in the past 10 years. He said the schools here have come to the Theatre Institute more than 100 times over the past 10 years to see different productions and use the educational facilities. He said also, he went through some of the statistical records indicating the people of the Town of Bethlehem, the residents of the Town, support the Theatre Institute more than any other Town in the entire State of New York. He said hundreds, literally hundreds of neighbors are subscribers and attendees at the

Adopt  
Amendment  
to Traffic  
Ordinance -  
Stop  
Sign at  
Catherine  
St. &  
Pheasant  
Lane

Adopt  
Resolution  
NYS Theatre  
Institute

Theatre Institute. He said, therefore, for them to disappear -- which is undoubtedly what would happen with the current budget cuts that they are facing -- would be a blow to not only the schools but the citizenry of the Town.

Supervisor Ringler asked if the Board had any questions. Councilman Gunner asked what the percent of the budget cut is. He said it sounds very severe and asked if they counted any of it. Mr. Lange said worse than severe. He said the State has told them it would be a 75% cut, however, all of them have been laid off, with assurances that some will be rehired. But, Mr. Lange said as of right now, they all have their layoff notices, so there will not be a Theatre Institute after May 15 unless something is done. He said the State Legislature, many of the members of the State Legislature, are strongly in their corner, including Assemblyman Faso and Senator Nolan who cover this district and they are working very hard. He said they want to know if the rest of the community is behind them.

Supervisor Ringler asked if there were any questions. He said there is a sample resolution and asked if anyone would like to take action on this. The following resolution was presented for adoption:

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF BETHLEHEM SUPPORTING THE  
NEW YORK STATE THEATRE INSTITUTE

RESOLVED, that the Town Board of the Town of Bethlehem stands in support of the New York State Theatre Institute's contribution to the arts and education of the young people of the State of New York, opposes the severe cuts to the New York State Theatre Institute and urges the State University of New York Central Administration to restore a portion of the reductions in the University of Albany's budget so that the New York State Theatre Institute can continue to function.

The foregoing resolution was adopted on a motion made by Mr. Webster, seconded by Ms. Galvin and passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

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Mr. Lange thanked Supervisor Ringler and the Supervisor wished Mr. Lange good luck.

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Supervisor Ringler indicated there would be one more item handled before opening the public hearing scheduled to begin at 8:00 p.m. The item, according to the Supervisor, is a recommendation from Mr. Bruce Secor, Commissioner of Public Works, regarding an extension of the time of the Building Project Approval for Juniper Fields/Adams Station and a letter of credit. He read the following memorandum.

Amendment  
to BPA  
Extension  
of Time  
Approval -  
Juniper Fields,  
Adams Woods

MEMORANDUM

TO: Kenneth J. Ringler, Supervisor  
FROM: Bruce H. Secor, Commissioner of Public Works  
DATE: August 30, 1991  
SUBJECT: Juniper Fields/Adams Station

I have reviewed the letter from J.F. Associates dated August 27, 1991, and have no objection to their request for an extension of time on the building project approval. Base blacktop pavement for Town roads, including the extension of the Delmar By-Pass, and related utilities have been constructed to Town standards.

In conjunction with reviewing their request for extension of time for the building project approval the Town Board should consider the status of the Irrevocable Letter of Credit which guarantees completion of the construction of the roadways within the project. Attached is a copy of a letter dated August 23, 1991, which was sent from my office to Columbia Banking in Rochester, NY, which requests a replacement Letter of Credit in the amount of \$120,000.00 for the Juniper Fields/Adams

Station project. To date, I have received no response to this letter. The existing Letter of Credit #730 was to have been replaced by an updated Letter of Credit in the amount of \$120,000.00 as was approved by the Town Board some time ago.

It is my recommendation that the Town Board require the replacement Letter of Credit be received prior to granting any additional requests for this project.

Please contact me if you have any questions or need any further information.

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Supervisor Ringler asked if there were any questions. Councilman Webster asked if it has been received. Supervisor Ringler indicated as of this point in time it has not. Mr. Secor said it was not, indicating there was some correspondence going back and forth but to date, the replacement letter has not been received. Supervisor Ringler said he would suggest honoring the request, contingent upon receiving the letter of credit. The motion was made by Mr. Gunner, was seconded by Mrs. Fuller that the request for an extension of time for the Juniper Fields/Adams Station subdivision be approved, pending receipt of the letter of credit.

Mr. Edward Fineberg asked for clarification in regard to the Town still having the letter of credit in the amount of \$750,000. Mr. Secor indicated we did but the expiration date is being questioned. Mr. Fineberg said they are working with the bank along with Mr. Secor to see -- as far as they are concerned, they believe that there is a \$750,000. letter of credit and it is to the benefit of the bank to replace it. He further said, the bank, as can be seen by his letter, one of the problems where the extension is asked for... Supervisor Ringler said, as soon as this is clarified and Mr. Secor has received a letter of credit that is satisfactory, if the Board is so inclined, the extension will be granted. Mr. Fineberg indicated he thought the Board was going to take action pending receipt of that. Supervisor Ringler said it will be a motion pending receipt of the letter of credit.

The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

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Supervisor Ringler said the next item on the agenda is a public hearing scheduled for 8:00 p.m. to consider Local Law No. 4 of 1991 amending Local Law No. 5 of 1990 Imposing a Solid Waste Facility Moratorium and Local Law No. 1 of 1991 Extending Said Moratorium for an additional six months. The Supervisor said this new Local Law would extend the Moratorium an additional three (3) months. He asked the Deputy Town Clerk to read the call of the hearing.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Town of Bethlehem, Albany County, NY on September 11, 1991 at 8:00 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider Local Law No. 4 of 1991 Amending Local Law No. 5 of the Year 1990 Imposing a Solid Waste Facility Moratorium Law and Local Law No. 1 of 1991 Extending said Moratorium for a Six Month Period, to Extend the Solid Waste Facility Moratorium Law for an additional Three Month period of time.

Public Hearing  
Proposed  
Local Law  
No. 4-1991  
Extension of  
Time Solid  
Waste Fac.  
Moratorium

All parties in interest and citizens will have an opportunity to be heard at said meeting.

BY ORDER OF THE TOWN BOARD  
TOWN OF BETHLEHEM  
CAROLYN M. LYONS  
TOWN CLERK

Date: August 28, 1991

- - -

KATHRYN OLSEN of the Town of Bethlehem, being duly sworn, says that she is the bookkeeper of THE SPOTLIGHT, a weekly newspaper published in the Town of Bethlehem, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said THE SPOTLIGHT ONCE A WEEK FOR 1 WEEK consecutively, commencing on the 28 day of August 1991.

/s/ Kathryn Olsen

Sworn to before me this 3  
day of September 1991.  
/s/ Bruce A. Neyerlin  
Notary Public, Albany County

- - -

STATE OF NEW YORK)  
COUNTY OF ALBANY) ss:

CAROLYN M. LYONS, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on August 28, 1991, a Notice of Public Hearing, a copy of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Carolyn M. Lyons

Sworn to before me this 29th  
day of August, 1991.  
/s/ Kathleen A. Newkirk  
Notary Public

- - -

The motion was made by Ms. Galvin and seconded by Mr. Webster that the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting Notice be indented on the minutes of the Public Hearing. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

- - -

Supervisor Ringler asked Mr. Secor, Chairman of the Solid Waste Task Force, to please explain the rationale for this extension. Mr. Secor exhibited a layout showing the status of work done by the Solid Waste Task Force with the Consultant. He said since he last met with the Town Board or did anything with the Town Board, work has been done with the consultants, Sterns and Wheeler, who was hired to help develop the engineering standards that are being looked at. He said the Consultants developed the chart and basically, what they are trying to narrow in on, are areas that we can be effective in and areas that we probably cannot be effective in. He said after one of the initial meetings with Sterns/Wheeler and with his expert consultant on air quality and community impacts, health assessment type impacts, Dr. Epstein, he wrote the Board a memo to bring them up-to-date on where this is at in the process. Basically, Mr. Secor said, what has been done since then is a draft of an outline of some ideas of types of standards that could be developed and there was a meeting to discuss this and then the Consultants were given some more things to think about and some more things to expand on. He said the Consultant is working on updating that draft. He further said he has met with Mike Smith, who is the attorney working on updating the actual law and it is his advice that we actually do these standards as an amendment or a new chapter to our existing laws rather than trying to rewrite the entire solid waste legislation. Mr. Secor said they are in the process of doing this and they expect by the end of this month or the end of next month to have that second draft of the outline of standards and criteria. He said then this could be given to Mr. Smith and he can begin to put that into the language that is needed to put into the existing solid waste law.

Mr. Secor said what the chart is basically showing is that there are areas where the State and Federal Government have exercised control and had quite a bit of control and there are other areas where they think there will be room for us to get into. He said the yellow and orange areas are areas that they feel that we can be effective in. He said without trying to explain every little dot on the chart... basically, this is where we are heading. He said things can be done on citing criteria, land use type options, operating criteria, methods of operation, the frequency of monitoring -- for example, in the State regulations, they may require 2 air tests per year, we do not think that is anywhere near adequate enough. He said we can do things which are more exacting than what the State has in there, so long as they make some kind of sense. He said we can certainly do nothing that is less restrictive. This is the direction they are heading in, according to Mr. Secor, trying to narrow down these areas. He said as he pointed out in his memorandum, Dr. Epstein has suggested that if we were to try to go chemical by chemical or chemical compound by chemical compound, and try to regulate those chemicals as air pollutants or ground water pollutants or whatever, we would get mired down in that and simply never be effective. The Federal Government has been trying to do that for ten years or more, according to Mr. Secor, with a multi-million dollar budget and he thinks to date they have regulated 10 compounds. He said this is an area where the Consultant feels as good as we do and as hard as we might try there would be many experts piled up against them and it will compound the whole issue. Mr. Secor said we would simply get bogged down and never complete it.

Mr. Secor said we are going in a different direction trying to be as effective as we can within areas which are going to be attainable and areas which they can give the Board some clear cut direction on. He said this is kind of the time frame we are in and where we are in the process. The extension, Mr. Secor feels, is necessary to give us the time to complete that and get a final report for a final recommendation to the Town Board for your consideration and then it would have to be scheduled for a public hearing, if we were going to amend the Local Law.

Supervisor Ringler asked Mr. Secor if 3 months was a sufficient amount of time to do this. Mr. Secor said he hoped so, at the time he wrote this up they had made good progress getting the first draft but it is awkward to get things from an engineering draft standard into the language of the law format. He said this is what he has to meet with Mr. Smith about and work on. He said he hopes to do that. He said it may be that they might have to come back for one additional extension but he said he is reluctant to ask simply for another six months

because you set these goals -- set a time line and there is a time table and a schedule they are trying to meet and they may not meet it exactly but they are going to try very hard to get in here.

Supervisor Ringler asked if there were any questions. Councilman Gunner asked what impact, if any, does this have on our Metz landfill agreement. Supervisor Ringler said none. Mr. Secor explained no, because that is a matter of litigation and would be outside of this. It preceded the moratorium and it is under closure right now, according to Mr. Secor. Mr. Ringler asked if there were any other questions. There were none. He asked if anyone from the audience had any questions. There were none. He then asked if anyone wished to speak in favor of this proposal. No one spoke. He further asked if anyone wished to speak in opposition to this proposal. No one spoke.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to close the public hearing at 8:10 p.m. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

*Kathleen A. Newkirk*  
Deputy Town Clerk

Supervisor Ringler reconvened the regular meeting following the public hearing asking if anyone wished to take action on the proposed extension of three months, Local Law No. 4 of 1991.

Adopt Local Law No. 4-1991, 3 Month Ext. Solid Waste Fac. Moratorium

The motion was made by Mr. Gunner and seconded by Ms. Galvin to adopt Local Law No. 4 of 1991 amending Local Law No. 5 of 1990 Imposing a Solid Waste Facility Moratorium and Local Law No. 1 of 1991 Extending said Moratorium for a Period of Six Months, to Extend the Solid Waste Facility Moratorium an Additional Three (3) Months. The motion was passed by the following vote:

Ayes: Mr.Ringler, Mr.Webster, Mr.Gunner, Ms.Galvin, Mrs.Fuller. Noes: None.

Supervisor Ringler thanked Mr. Secor.

See copy of Local Law No. 4 of 1991 following page 32.

Approval Highway Supt. Conf.

Supervisor Ringler indicated the Board will now continue with the regular agenda, indicating the next item is from Martin Cross, Superintendent of Highways, for approval of payment of \$50.00 registration fee for three (3) days at the NYS Highway Superintendent Conference held at Kutcher's from September 24 through 27, 1991. The Supervisor said in line with the current procedures, Mr. Cross will pay his own expenses but requests the registration fee paid, which is basically what has been allowed for everyone. Councilman Webster asked if the Board is also allowing the time off for the attendance at the Conference and transportation. Mr. Ringler said yes.

The motion was made by Ms. Galvin, was seconded by Mrs. Fuller and passed by the following vote:

Ayes: Mr.Ringler, Mr.Webster, Mr.Gunner, Ms.Galvin, Mrs.Fuller. Noes: None.

Approval Disposal of Vehicle by Auction

Supervisor Ringler said the next item is a request from Martin Cross, Superintendent of Highways, to dispose of a 1989 Dodge Diplomat vehicle at auction. The motion was made by Mr. Webster, was seconded by Ms. Galvin to permit the disposal at auction of one 1989 Dodge Diplomat vehicle and passed by the following vote:

Ayes: Mr.Ringler, Mr.Webster, Mr.Gunner, Ms.Galvin, Mrs.Fuller. Noes: None.

Supervisor Ringler indicated a question was asked the other day in regard to the model of this vehicle, stating it is a 1989 but it was purchased at the beginning of 1989 and it has 100,000 miles on it. He said it was a police car.

Increase in Tipping Fees at Materials Reprocessing Facility

Following Supervisor Ringler said is a request from Martin Cross, Highway Superintendent, for approval of an increase from \$3.75 per cubic yard to \$5.50 per cubic yard tipping fee at the Materials Reprocessing Facility on Route 32. He read the following letter:

September 5, 1991

Bethlehem Town Board  
445 Delaware Avenue  
Delmar, NY 12054

Dear Board Members:

I respectfully request that the Town Board increase the tipping fee at the Materials Reprocessing Facility (MRF) on Route 32.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  
City of Bethlehem  
Town  
Village

Local Law No. 4 of the year 1991

A local law Amendment to the Solid Waste Facility Moratorium Law of the Town of Bethlehem, Local Law No. 5 of 1990 and Local Law No. 1 of 1991, Extension of the Moratorium. Be It enacted by the Town Board of the

County  
City of Town of Bethlehem  
Town  
Village as follows:

A Local Law Amending Local Law No. 5 of the Year 1990 Imposing a Solid Waste Facility Moratorium Law and Local Law No. 1 of 1991 Extending said Moratorium for a Six Month Period.

Be in enacted by the Town Board of the Town of Bethlehem, New York, on the \_\_\_ day of , 1991, as follows:

SECTION I - Title

This Local Law shall be known and may be cited as the Amendment to the Solid Waste Facility Moratorium Law of the Town of Bethlehem, Local Law No. 5 of 1990 and Local Law No. 1 of 1991, Extension of the Moratorium.

SECTION II - Findings and Intent

By Local Law No. 5 of the year 1990, enacted by the Town Board on September 6, 1990, and effective September 18, 1990, the Town of Bethlehem imposed a six (6) month moratorium on the siting, permitting, licensing or construction of any new solid waste facility within the Town of Bethlehem, except those owned or operated by the Town of Bethlehem itself, or the siting, permitting, licensing and construction of expansions or modifications to any solid waste facility, except those owned or operated by the Town of Bethlehem itself and Local Law No. 1 of 1991 Permitting an Extension of Six Months to Local Law No. 5 of 1990. The Solid Waste Task Force has recommended that this moratorium be extended for an additional three (3) month period so that the Commissioner of Public Works, and the Solid Waste Task Force, and their consultants and advisors, might complete the preparation and drafting of a proposed permit process, and engineering and other standards, relating to the siting, construction, operation and closure of new and existing solid waste facilities located, or proposed to be located, within the Town of Bethlehem.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION III

The Town Board, as a matter of absolute legislative discretion, hereby declares that, for a period of three (3) months from the effective date and the six (6) month extension of this Local Law, the provisions contained in Sections I through VIII of Local Law No. 5 of 1990 shall be in full force and effect. Nothing contained herein shall preclude the Town Board from considering and, as a matter of absolute legislative discretion, enacting further extensions of the moratorium.

SECTION IV

This Local Law shall become effective September 18, 1991.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 1991 of the ~~(County)(City)~~(Town)(~~Village~~) of Bethlehem was duly passed by the Town Board on Sept. 11, 1991 in accordance with the applicable provisions of law.  
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after (Name of Legislative Body) disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_, (Elective Chief Executive Officer\*) in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after (Name of Legislative Body) disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was (Elective Chief Executive Officer\*) submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after (Name of Legislative Body) disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was subject to (Elective Chief Executive Officer\*) permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 19\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Carolyn M. Lyons Town Clerk  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

(Seal)

Date: September 12, 1991

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK  
COUNTY OF Albany

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Bernard Koplitz  
Signature  
Town Attorney  
Title

~~XXXXXX~~  
~~City~~ of Bethlehem  
Town  
~~XXXXXXXX~~

Date: September 12, 1991

(4)

The present rate which was set by the Board when the MRF opened in September of 1990 is \$3.75 per cubic yard. Since that time, the tipping fee at Empire Returns in Syracuse (where we haul the comingled recyclables) has increased substantially.

Therefore, I request the Town Board set a new rate for the local trash haulers using the Town's MRF at \$5.50 per cubic yard. This new rate will go into effect October 1, 1991.

Thank you for your consideration.

Very truly yours,

/s/ Martin J. Cross  
Martin J. Cross  
Superintendent of Highways

- - -

Supervisor Ringler indicated Mr. Secor is in attendance and asked if there were any questions. Councilwoman Galvin asked if this would cover our expenses. Mr. Secor said it will not. He said when we started going to Syracuse and talked to them about bringing them our comingled recyclables, it was going to be \$3.00 or close to \$3.00. He said he thinks the first fees actually paid were \$10.00 per ton. He said the whole load weighs only 8 tons, so whether it was -0- or \$10.00, it did not mean that much. He said it is now up to \$32.50 or something, now it is getting up there, so the change from \$3.00 -- at the time the \$3.75 was set, it covered the cost of driving out to Syracuse, which is tolls, fuel and the driver's time and the tipping fee and since then we are back -- at the point now that that charge does not even cover our cost of what we have to pay out in Syracuse.

Mr. Secor said they were at a meeting for the ANSWERS group and they are hoping to have a MRF here in Albany that will take the comingled recyclables at that rate or less which would save some transportation and may make it possible for us to simply no longer have that. He said the same people who are hauling from Town to us may go directly to the Port. He said this increase will not cover all the cost but it will cover most of the cost of driving out there and tipping which is about where we started with.

Supervisor Ringler asked if there were any other questions. Councilman Gunner asked if Mr. Secor would anticipate that this is going to be passed onto the residents in there, by the commercial carriers. Mr. Secor said to be honest he did not know how -- the comingled recyclables really do not weigh that much. Mr. Gunner said that is what he was getting at. He said what that is is a percentage of your costs. He further said most of those loads that come in are only a few tons. Mr. Secor said we are talking a couple dollars a load. Councilman Gunner said it really should not. Mr. Secor said they may have hit 300 stops in order to generate that extra couple of dollars. He said if you sit down with a calculator and try to compute it backwards, he doubted it would be much of an impact on the individuals. He said how the vendors will handle that he does not know. He said they may not want to come to us any more, they may have some place else they can go and do it themselves more cheaply, he did not know that.

Supervisor Ringler asked if there were any other questions. There were none. The motion was made by Ms. Galvin, was seconded by Mrs. Fuller to increase the tipping fee from \$3.75 per cubic yard to \$5.50 per cubic yard at the Materials Reprocessing Facility on Route 32 for the commercial haulers and passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

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Supervisor Ringler said the next item is a discussion of the public hearing held August 28, 1991 pertaining to a proposed zone change for McCormack Road and Hudson Avenue. He said the hearing did take place on this recommendation, the recommendation being that a

Discussion  
Proposed  
Zone Change  
Hudson Ave.-  
McCormack Rd.

portion of this site be rezoned to "AA" with a contractual arrangement with the current owner that if there is no more than 65 units placed on that and the balance 35 acres on Hudson Avenue will be rezoned to "AAA". He said the two issues brought up in the hearing were a timing element on how long this has to take place, how much time the Board would give them before they would have to be completed and also the owner of the other 35 acres did not wish to have her land zoned to "AAA".

Mr. Lipnicky is in attendance, as well as the attorney for the developer, according to Supervisor Ringler and he asked if there were any questions. Councilman Webster asked if the discussion was between 2 and 4 years. Attorney Kaplowitz said he and Mr. Lipnicky have talked about it and they came up, he guessed, with what they felt was -- and make sure I have not forgotten -- two (2) years from final approval by the Planning Board or three (3) years from the adoption of the ordinance, which they felt was a reasonable period of time. He said the developer is a little concerned about the three (3) years from the time of the adoption of the ordinance and that is understandable but Attorney Kaplowitz does not think there is any reason why they could not come back for an extension if they could show good reason for the delay, citing an example of their being held up by the Planning Board for two or three years. He said they could come back and ask for an extension. He said under the present circumstances, that is a reasonable way of doing it. Mr. Kaplowitz asked Mr. Lipnicky if that is a fair way to put it. Mr. Lipnicky said exactly.

Supervisor Ringler asked if there were any questions on that issue. Councilman Gunner asked if there are no legal problems in the other zoning of the other area "AAA", to "AAA" from "PRD". Supervisor Ringler said not as far as is known, indicating we can always be sued on anything that is done, naturally. Councilman Gunner said he meant to the best of our knowledge. Supervisor Ringler said that is right. Attorney Kaplowitz said he did not think so. Councilman Webster said that part of the PRD when it was set up was to be forever wild. Supervisor Ringler said that is part of the problem, indicating the constraints of the valleys and so forth. He said that is one reason the Planning Department had recommended that, is that that land is very difficult to deal with and if you go in and try to put any higher density, you are going to be filling in valleys and taking down all the trees and this kind of thing. Mr. Ringler said he believes, one of the questions that might come up legally, is to whether or not this is a taking or not on our part because we might be removing any economic benefits that the current owner might have. Supervisor Ringler said Mr. Lipnicky was looking into this a little bit and asked him if he would like to comment on that. Mr. Lipnicky said in his view it is, again he is just a Planner not an attorney, but that point aside, he does not see how this could be considered a taking since the developer would still have the ability to develop 37 single family units on the parcel. He said nobody has a right to develop the parcel to the extent they want to, it is to the extent that is set by the Town Board. Given the constraints of this site, according to Mr. Lipnicky, which includes slope, wet soils, slippage prone soils, highly erodible soils and the list goes on, hydric soils -- in his view, this is an absolutely lousy, terrible piece of land to be developing. He said to give some idea how bad the piece of land is, he went back through the Assessor's records and this parcel sold 35 acres in 1987 at tax auction for \$8,600. He said there is a reason it sold for \$8,600. and that is because of the way the land is situated and its conditions. Attorney Kaplowitz said you do not have a taking unless you have deprived the owner of any reasonable manner in which to develop the property. He said in making it "AAA" it reduces the density considerable but you certainly are leaving the owner a reasonable opportunity to develop the land. He further said the issue of a taking does not really bother him. He said he does not think it is there. Councilman Webster said he bought it for \$8,600. and one house is a deal.

Supervisor Ringler said he does not think it is proper for the Board to act on this Local Law tonight. He indicated the Local Law has to be printed in final form with those time frames that Mr. Lipnicky and Attorney Kaplowitz have worked out and be on the Board Members desk's 10 days prior to any action being taken on it. If everyone is in consensus that it should be passed as is, according to Mr. Ringler,

he is suggesting that Attorney Kaplowitz and Mr. Lipnicky complete this and place it on the next agenda for action. The Board acknowledged they are in consensus with Supervisor Ringler.

Attorney John Hayko of Greenshade Consortium addressed one question to Attorney Kaplowitz for some legal clarification -- if it would be necessary to come in for that extension prior to the 3 years elapsing before planning approval or work is begun on the project -- would it be necessary for an amendment process to have an application to the Town Board which would then be referred to the Planning Board as this rezoning would be considered the same. Attorney Kaplowitz said he would think that this would be the correct way to go, stating this is the normal procedure. He said he does not know how you could avoid that. Supervisor Ringler said it is no different than what was done this evening, a modification to the building project approval. He said it was a minor change to the building project approval. The Town Board can do this, Supervisor Ringler noted. Attorney Kaplowitz said you might be able to get away with that, it might not be necessary. He further said no matter what is done with it, in any zoning change there is no reason why somebody cannot come in and say I would like you to change it. He said this is all that is being said. He further said the Board thinks this is a very reasonable amount of time but if you run into justifiable delay, there is no reason why you cannot come back and say, we had this or that problem -- the Health Department, the County, the Town, whatever -- come back and tell the Board but at the same time, we are very sensitive to the issue, we do not want these things to linger forever. He said we have some PRDs out there that were granted 10 or 15 years ago that were never developed. He said this is creating some problems and it is the kind of thing they want to avoid in the future. Attorney Hayko said they anticipate having the plans to the Planning Department next week. Attorney Kaplowitz said then there is 3 years to get moving.

Supervisor Ringler said in this case, this item will be tabled until the next Board meeting. The motion was made by Ms. Galvin, was seconded by Mr. Webster to table the matter of a zone change for McCormack Road and Hudson Avenue and passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

Supervisor Ringler thanked Mr. Hayko and Mr. Lipnicky.

Supervisor Ringler indicated the next item is a recommendation from Mr. Alan Riedel, Department of Public Works, for acceptance of a deed in the Adams Wood Section No. 1 subdivision, pending approval of the Town Attorney. He said there is a note also indicating pending receipt of a letter of credit, insurance and affidavit. He noted this was to be received prior to this meeting, however, he does not believe it has been received. Mr. Secor noted a fax was received of the Letter of Credit but this is basically no good. Supervisor Ringler said this could be accepted pending receipt of these items.

Accept Deed  
Adams Woods  
Subdivision

The motion was made by Mr. Webster, was seconded by Ms. Galvin to accept the deed in the Adams Wood Section No. 1 subdivision pending approval of the Town Attorney and receipt of the Letter of Credit, Insurance and Affidavit, and passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

Supervisor Ringler said the next item was a request from David Austin, Administrator of Parks & Recreation Department, for the approval of appointment of seasonal personnel as follows:

Recreation Supervisor at a rate of \$5.15 per hour.

Appoint  
Seasonal  
Personnel -  
Parks & Rec.

Robert Oskam  
28 Jefferson Road  
Glenmont, NY 12077

The motion was made by Ms. Galvin, was seconded by Mr. Gunner to approve the above appointment and passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

Approve  
Overpayment  
of Water  
Rents -  
August  
1991

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Supervisor Ringler said the following item is a request from Kenneth Hahn, Receiver of Taxes & Assessments, for payment of overpaid water rents for the month of August totaling \$13.99.

The motion was made by Mr. Webster, was seconded by Ms. Galvin that the payment of overpaid water rents for the month of August be approved and passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

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Following, according to Supervisor Ringler, is a request from Barbara Hodom, Court Clerk, for approval of attendance at the 10th annual Conference of Court Clerks to be held October 6 through 9, 1991, at the Fallsview Hotel, Ellenville, NY. Again, the Supervisor noted Mrs. Hodom is willing to pay her own expenses to this indicating she was not aware that the registration fee is paid. He said he told her that normally the registration fee is paid.

The motion was made by Mr. Webster, was seconded by Ms. Galvin and passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

Approval  
NYS Bldg.  
Officials  
Conf.

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Supervisor Ringler noted the next item was a request from Mr. John Flanigan, Building Inspector, for approval of Roger Griffiths, Kevin Shea, Mark Platel and John Flanigan to attend the NYS Building Officials Conference to be held October 2 through 4, 1991 at Kerhonkson, NY. He said Mr. Flanigan did request expenses to be paid, however, as it was discussed, that again would be in violation of the current policies. The question comes up as to whether or not his people -- some of this training is mandated, there has to be a certain amount of hours mandated training each year under the State law -- according to Supervisor Ringler, however, as this was questioned further, some of the training could be obtained locally if they had to. He said, therefore, that he is recommending that they be granted the same -- the Board approve payment of the registration fee and the time off but they will pick-up their own expenses. They will take a Town vehicle to go to this Conference, he noted.

The motion was made by Ms. Galvin, was seconded by Mr. Gunner to approve attendance at the NYS Building Officials Conference with the registration fee paid and passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

Approve  
Release of  
Easement  
Googas  
Road

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Supervisor Ringler said the next item is a recommendation from Mr. Bruce Secor, Commissioner of Public Works, for release of an easement for lot number 12 on Googas Road, North Bethlehem. He read the following memorandum from Mr. Secor.

MEMORANDUM

TO: Kenneth J. Ringler, Supervisor  
FROM: Bruce H. Secor, Commissioner of Public Works  
DATE: September 5, 1991  
SUBJECT: Proposed Googas Residence  
12 Googas Road

As per your request, I have reviewed the letter of September 3, 1991 from Mr. and Mrs. Googas with respect to problems at their house lot at #12 Googas Road.

Mr. Googas has provided a field stake out of the proposed house and made actual field measurements of the location of the sanitary sewer line in relationship to the property lines and the corner of the proposed foundation. Based on these field measurements and a review of the utility drawings, we can accept the separation as shown on the plot plan. The sanitary sewer main that exists in this area services only one home and in the future will service a small parcel now owned by the Church of the Nazarene which is northerly of the Googas lot.

Based on our review of the field condition and the existing maps, we recommend that the Town Board grant the release of the easement as requested by Mr. Googas and suggest that two conditions be applied.

- 1) That the foundation for the corner of the house nearest the sewer main be set at approximately the same elevation as the existing sewer line, so there is no chance of any under mining of the footing in an unlikely event that we are required to excavate to the sanitary sewer main. This may require a slightly deeper foundation in this area, but would be of minor consequence to the total cost of the house.
- 2) That Mr. and Mrs. Googas provide a release or indemnification to the Sewer District that in the event of a sewer backup or future excavation that may occur, that they would not sue or try to claim any damages against the Sewer District or the Town of Bethlehem.

Please contact me if you have any questions or need any further information.

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Supervisor Ringler asked if there were any questions on this recommendation. Councilman Webster asked if this becomes part of their deed. Supervisor Ringler asked how this would be handled. Attorney Kaplowitz said this was talked about and it can become part of the release of the easement when it gets recorded. He asked Mr. Secor if he spoke with Mr. Bishko about this. Mr. Secor said he spoke to him, however, this was not finalized. Supervisor Ringler asked Mr. Secor if Mr. Bishko would be preparing the release on this. Mr. Secor said this was correct, indicating Mr. and Mrs. Googas provided the meets and bounds description. He said the Town would normally draw the easement and release. Attorney Kaplowitz said what was discussed would work if the conditions are put in the release, the release gets recorded so it is noticed to anyone who might buy the house in the future, all the way down the line. He indicated any time a title search is done, it will always show up. He said this should work out, he thinks.

Supervisor Ringler asked if there were any other questions. There were none. The motion was made by Mr. Gunner to approve this request with the conditions stated, was seconded by Mrs. Fuller and passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

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Following was a request for the appointment of Mary DeGross, 77 Jordan Boulevard, Delmar, New York as Election Inspector for the term expiring July 14, 1992, according to Supervisor Ringler, to fill the vacancy in the 26th Election District of the Town of Bethlehem.

Appoint  
Republican  
Election  
Inspector

The motion was made by Ms. Galvin, was seconded by Mr. Gunner that Mary DeGross, 77 Jordan Boulevard, Delmar, New York be and she hereby is appointed Election Inspector for the 26th Town of Bethlehem Election District for the term expiring July 14, 1992 and passed by the following vote:

Ayes: Mr.Ringler, Mr.Webster, Mr.Gunner, Ms.Galvin, Mrs.Fuller.  
Noes: None.

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Approve  
Attendance  
Pesticide  
Conference -  
Parks& Rec.

Supervisor Ringler said the following item is a request from David Austin, Administrator of Parks & Recreation Department, for the approval of James Reagan and Donald Glastetter to attend a one day Pesticide Update for the Horticulture Industry Seminar to be held September 24, 1991 at Voorheesville, New York, with expenses paid. Supervisor Ringler said there is a registration fee of \$20.00 and they are required to do this in order to have their license to continue to apply pesticides. Councilman Gunner said this is no different than we have done with the others. Supervisor Ringler said it is not.

The motion was made by Ms. Galvin, was seconded by Mr. Gunner that James Reagan and Donald Glastetter be and they hereby are authorized to attend the one day Pesticide Update for the Horticulture Industry Seminar to be held September 24, 1991 at Voorheesville, New York and passed by the following vote:

Ayes: Mr.Ringler, Mr.Webster, Mr.Gunner, Ms.Galvin, Mrs.Fuller.  
Noes: None.

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The next item on the agenda, according to Supervisor Ringler, was a request from John Flanigan, Building Inspector, for approval of a reappropriation from Insurance Recovery to Vehicle Repair for repair of damage to vehicle on August 13, 1991.

Reappropriate  
Funds - Repair  
of Vehicle -  
Bldg. Dept.

The motion was made by Mr. Webster, was seconded by Ms. Galvin to approve the reappropriate of \$3,270.40 from Insurance Recovery to Vehicle Repair for the repair of vehicle damage of August 13, 1991 and passed by the following vote:

Ayes: Mr.Ringler, Mr.Webster, Mr.Gunner, Ms.Galvin, Mrs.Fuller.  
Noes: None.

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Supervisor Ringler said the next item is a request from Bruce Seor, Commissioner of Public Works, for the scheduling of the public hearing in regard to the 1991 assessment rolls for the Bethlehem Sewer District.

Schedule  
Public  
Hearing  
1991 Assess-  
ment Rolls  
(Sewer)

The following resolution was offered for acceptance by Mr. Webster and seconded by Ms. Galvin:

WHEREAS, 1992 assessment rolls have been prepared for the Bethlehem Sewer District and it is necessary to hold a public hearing with reference thereto,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hold a public hearing with reference thereto, at 8:15 p.m. on the 9th day of October 1991 at the Town Hall, and

BE IT FURTHER RESOLVED, that the Town Clerk be, and she hereby is authorized and directed to publish a notice of such hearing in THE SPOTLIGHT, a newspaper published in Albany County and having a circulation within the Town of Bethlehem, on the 25th day of September 1991.

The foregoing resolution was presented for adoption by Mr. Webster, seconded by Ms. Galvin and was duly adopted by the following vote:

Ayes: Mr.Ringler, Mr.Webster, Mr.Gunner, Ms.Galvin, Mrs.Fuller.  
Noes: None.

Dated: September 11, 1991.

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Supervisor Ringler next requested a motion to conduct an Executive Session at the end of this meeting to discuss a personnel matter. The

motion was made by Ms. Galvin, was seconded by Mr. Gunner and passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

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Supervisor Ringler asked if there was anything else to be brought to the Board's attention. Councilwoman Fuller said she would like to present the following resolution for adoption by the Board.

WHEREAS, I am aware that the Town Board has spoken on the subject of ANSWERS, and much of the correspondence I'm receiving indicates concern about the Board's position, and

WHEREAS, I believe we should take this opportunity to clearly state the Town Board's position concerning eminent domain and ANSWERS, and

WHEREAS, I therefore, am introducing a resolution that will resolve any doubt on the part of our citizens,

NOW, THEREFORE, BE IT RESOLVED, that the people of the Town of Bethlehem as represented by the Town Board do firmly and unequivocally oppose any State Legislation that would give ANSWERS authority status or the power of eminent domain over the Town of Bethlehem.

The foregoing resolution was presented for adoption by Mrs. Fuller, seconded by Mr. Gunner and duly adopted by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

Councilman Webster said he thought the second should be done by the entire Board.

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Supervisor Ringler said he had one comment, stating he thought this was very good in case the current legislation happens to be changed. He said just for clarification purposes for anybody that is in attendance, the current bill that is before the Legislature still protects us in that we have to elect to be in ANSWERS before they have any eminent domain power in our Town. He said this is not to say that some day down the road that different legislation might not come forward. Councilwoman Fuller agreed, indicating this was correct. The Supervisor said he thinks the suggestion is great and if the Board is so inclined it could be passed and he would notify the State Legislators of our position on that.

Supervisor Ringler said for our record, he just wanted everyone to know, because there is a lot of confusion on the public's part out there, as to what that current bill says. Supervisor Ringler said we have been fighting that bill to make changes long before anything was ever discussed regarding citing of landfills in our Town. He noted we have been very successful in fighting that bill in the Senate. He said it did pass the State Assembly. He said the bill as written is a horrendous bill, even if we were going to participate in ANSWERS because in his view it gave complete autonomy to the City of Albany and very little input to the other participating municipalities. He said we attempted to get changes to that even before we were even going to discuss whether or not we were going to participate. He said this did not happen, it did pass the Assembly, as he said, two years ago and it was defeated in the Senate that year and this past year it never made it to the floor of either house. He said it is still pending but he strongly endorses Mrs. Fuller's proposal. Councilwoman Fuller said she thinks the concern is still here with our citizens and we cannot emphasize it enough. Supervisor Ringler agreed, absolutely, thanking Councilwoman Fuller.

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Resolution  
Town Posit:  
ANSWERS &  
Landfill  
Sittings

Supervisor Ringler asked if there was anything else to be brought to the Board's attention. There were no other comments.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to close the Town Board meeting at 8:30 p.m. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

*Kathleen A. Newkirk*  
Deputy Town Clerk

EXECUTIVE SESSION

No formal action was taken at the Executive Session.

Executive  
Session -  
Personnel  
Matter