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TOWN BOARD  
SEPTEMBER 11, 1996

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: Sheila Fuller, Supervisor  
Freeman T. Putney, Councilman  
George Lenhardt, Councilman  
Doris M. Davis, Councilman  
Robert C. Johnson, Councilman  
Bernard Kaplowitz, Esq., Town Attorney  
Kathleen A. Newkirk, Town Clerk

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SUPERVISOR FULLER: Good evening and welcome to a meeting of the Bethlehem Town Board. This evening we begin with our first of three public hearings. I would ask the Clerk to read the call of the first hearing.

TOWN CLERK NEWKIRK:

ORDER FOR PUBLIC HEARING ON PROVIDING  
WATER DISTRICT EXTENSION AND IMPROVEMENTS  
EXTRACT FROM MINUTES OF TOWN BOARD TOWN OF BETHLEHEM  
AUG. 14, 1996

A regular meeting of the Town Board of the Town of Bethlehem was held on the above date at the Town Hall, 445 Delaware Avenue, Delmar, New York. The meeting was called to order at 7:30 p.m.

PRESENT: Supervisor Fuller, Councilman Putney, Councilman Lenhardt, Councilman Davis, Councilman Johnson.

ABSENT: None.

Councilman Davis offered the following order and moved that it be adopted:

WHEREAS, a written petition dated July 17, 1996 in due form and containing the required signatures has been presented to and filed with the Town Board of the Town of Bethlehem for extension of Water District No. 1, Town of Bethlehem, New York, to be known as Haswell Farms Water Extension being bounded and described as set forth in Exhibit A hereto annexed and made a part of hereof, and

Public hearing  
Water District  
extension and  
improvements

WHEREAS the improvements proposed consist of the construction of a water system within the extension, and valves, hydrants, appurtenances necessary for the operation of the water system, in accordance with a map, plan and report dated March 1996 and last revised July 18, 1996, made a part of such petition; and

WHEREAS, the maximum amount proposed to be expended for the said improvements, as stated in the petition, is the sum of \$625,000.

which is to be paid for entirely by the developer, it is hereby ORDERED that a public hearing shall be held at the Town Hall, 445 Delaware Avenue, Delmar, New York, on the 11th day of September 1995 at 7:30 o'clock P.M. to consider the said petition, a copy of which petition, including without limitation, said map, plan and report, are on file in the Town Clerk's office for public inspection and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation to the said petition as may be required by law or proper in the premises; and it is further

ORDERED, that the Town Clerk shall cause a copy of this order certified by the Town Clerk to be published in the Spotlight, the official newspaper of the Town, and shall also cause a copy of the order to be posted on the sign board of the Town maintained pursuant to subdivision eleven of section sixty-four of the Town Law, the said publication and posting to be not less than ten nor more than twenty days before the day designated for said hearing.

A motion made by Councilman Davis and seconded by Councilman Putney that such order be adopted was passed by the following vote:

AYE  
Supervisor Fuller  
Councilman Putney  
Councilman Lenhardt  
Councilman Davis  
Councilman Johnson

William J. Kelleher  
182 Roweland Avenue  
Delmar, New York, 12054  
Telephone 518 - 439 - 6281

August 23, 1996

Mrs. Kathleen A. Newkirk  
Town Clerk  
Town of Bethlehem  
445 Delaware Avenue  
Delmar, New York 12054

Dear Mrs. Newkirk:

I request that the enclosed statement be made part of the record of the August 28, 1996 Town Board meeting and that it be published in the official minutes of the meeting.

Sincerely yours,



William J. Kelleher

STATEMENT SUBMITTED TO THE TOWN BOARD FOR THE AUGUST 28, 1996  
MEETING CONCERNING THE YIELD OF THE HUDSON RIVER WELL

By  
William J. Kelleher

I am asking the Town Board to help obtain the data that will establish what the long term yield of the Town's Hudson river well actually is. My studies of reports, construction plans and electric bills indicate that the yield, during dry periods, will be far below the 6 million gallons of water per day (MGD) that we paid 13.9 million dollars for. However I need the "as built" plans and actual operating data to prove or disprove my claim.

The engineers made substantial errors during the design of the well and the well pumps. Some of these errors are: a completely useless 2 million dollar clay wall barrier that reduces the maximum potential yield of the well by as much as 50 percent; the manholes in the well were not made deep enough, requiring that the pumps be placed at a higher elevation than intended, thus reducing the capacity of the well; when the size of 2.2 miles of pipeline was changed from 16 to 24 inches the design engineer forgot to change the specifications for the pumps.

During construction money was saved by only constructing 3 manholes and installing 3 pumps instead of the 4 specified in the contract. Since the specifications for the pumps showed that each pump was capable of delivering 3 MGD, two pumps were capable of supplying 6 MGD. However at a rate of 6 MGD the manholes would be sucked dry and one of the pumps would have to be turned off or both pumps would be ruined.

Since turning the pumps on and off at frequent intervals causes rapid deterioration of the well and pumps, the pumps were radically modified from the original specifications. I have been trying to get the changes that were made from the Town Engineer, Mr. Bruce Secor, since October 1995. I have also been trying to get actual operating data for the well and pumps since operation started in January 1996 at an average rate of 2 MGD.

The Niagara Mohawk bills show that the efficiency of pumping is only 55 percent compared to the 80 percent required by the specifications. This confirms that radical changes were made. Further the March 1996 bill shows that all three pumps were in operation for approximately 8 minutes. The most plausible explanation is that a pump rate of around 6 MGD was tried but one of the pumps had to be turned off within 8 minutes. This is a far cry from the 3 day pump test at 6 MGD that the design engineer promised the Town.

I have attempted to obtain the data using the Freedom Of Information Legislation without any success. Mr. Secor has most of the data and any missing data can easily be obtained. I urge that the Town Board require that Mr. Secor provide the data.

NO  
None  
ABSENT  
None

Kathleen A. Newkirk  
Town Clerk  
Town of Bethlehem

Dated: Aug. 14, 1996

(Reading of Exhibit A, suggested description proposed Haswell Farms Water District Extension was dispensed with by the Board)

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State of New York)  
County of Albany )

MARY AHLSTROM of the Town of Bethlehem, being duly sworn, says that she is the Assistant Publisher 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 1996.

/s/ Mary A. Ahlstrom

Sworn to before me this 3rd day of Sept. 1996.

/s/ Kathryn Olsen  
Notary Public, Albany County

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STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, 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, 1996, 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/ Kathleen A. Newkirk  
Town Clerk

Sworn to before me this  
5th day of September 1996.

/s/ Catherine T. Picarazzi  
Notary Public

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The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.

Noes: None.

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SUPERVISOR FULLER: Mr. Green is here from Rust to give a description of what our public hearing is about.

MR. GREEN: My name is Jim Green. I am a consulting engineer and responsible for the design of the Haswell Farms Subdivision, as well as, the water extension. RSR Associates the petitioner has requested a water district extension to serve Haswell Farms which is a subdivision consisting of 178 lots. The subdivision is bound on the north by Feura Bush Road, on the east and general by McComb Drive and the Dowerskill, on the south by lands of Niagara Mohawk and then on the west, Westphal Drive and lands of Waldenmaier. On the map, outlined in blue, is the subdivision. The current water district boundary is a distance of and parallel to Feura Bush Road and is

noted by this line. Of the 178 lots, approximately 63 or 63 are whole or totally within the current district and the expansion would serve the balance of 116 lots. The... Just general information that I will give you about usage and purchase however, deal with the entire subdivision as opposed to just the number of houses within the extension.

Currently the Town of Bethlehem or the Water District No. 1 serves about 28,000 customers or residents in addition to commercial/industrial users. And, this project will add about a little over 700 persons based upon full persons per household. We found treatment facilities and sources, as all of you know, are consisting of several things -- Vly Creek plants and wells of about 3.... usually do a million gallons per day plus another 2 million from the City plus another 6 million from the Hudson River plant.

As I previously said, this facility or this entire subdivision will only require about 7,000 gallons per day or 7/100ths of a million gallons. So, the report says ample capacity to serve this development.

The next thing we did at the request of the Town is we did a distribution analysis of flows and pressures. Flow and pressure tests were taken on Westphal Drive, on McCombe Drive and Feura Bush Road. An analysis was run, the analysis and the plans that have been approved have approved 8 inch lines in all of the subdivision. A 10 inch line along Hasgate Drive and up to Forstein Drive which will be a continuation through any future development to Elm Avenue East to where it will connect into a proposed 12 inch main there providing... The analysis was done on 2 bases, one without future development and flows we anticipate for fire, we anticipate the 10 inch main... We had pressures at the trap flows of 1100 gallons per minute in excess of about 40, 45 psi, this is all in the report. We then did another analysis with Dowerskill Village included and in that particular scenario, we assumed 3 simultaneous fires, plus a peak demand of about 575 gallons per minute and had ample pressures. Three fires within these 2 developments would be highly unusual. So, the system has adequate pressure. In order to assist the town and encourage the looping of this land that we are talking about, the developer has agreed to install a 12 inch main along Elm Avenue from Peel Street to Wildwood Lane. ... of the project exclusive of the work on Elm Avenue, the 625 thousand ultimately which will be borne by the developer. And, so we respectfully request you approve this extension.

SUPERVISOR FULLER: Thank you, Jim. Are there any questions from the Board? Any questions from the audience?

MR. DAVIES: Good evening. My name is Sherwood Davies. These are generic questions. Is tonight the Town Board sitting and conducting this hearing with specific regards to the interests of the Water District No. 1?

SUPERVISOR FULLER: Yes.

MR. DAVIES: The answer is yes. Who is the attorney representing the Water District and is he present tonight?

SUPERVISOR FULLER: Dixon Welt is the attorney and I don't believe he is present.

MR. DAVIES: Not here tonight, okay. And the third, will the ozone treatment be in operation for the new Clapper Road plant by the end of the month?

SUPERVISOR FULLER: By the end of September?

MR. DAVIES: Yes. Yes.

SUPERVISOR FULLER: Is Mr. Secor in the audience?

MR. SECOR: Yes, that's what the schedule is.

MR. DAVIES: Okay. And, the fourth question, is there any likelihood of legal action involving this ozone treatment installation, construction or operation?

ATTORNEY KAPLOWITZ: By who, Sherwood? Legal action by who?

SUPERVISOR FULLER: Yes.

MR. DAVIES: Legal action by either the contractor, the Town, the Engineer or the supplier of the equipment.

ATTORNEY KAPLOWITZ: I am not aware of any contemplated action by anybody.

SUPERVISOR FULLER: No.

ATTORNEY KAPLOWITZ: I can't speak for some of those people you mentioned, you know. The Town has no present plans to sue anybody but I don't know about what the contractor is doing or anything else. I suppose a lot depends on whether it works or not when it is turned on.

MR. DAVIES: Well, the... I guess my question about the attorney being here was to ask if he had been privy to the correspondence between Mr. Secor, Mr. Frasier, the supplier of the equipment, the contractor.

ATTORNEY KAPLOWITZ: In my 18 years as Town Attorney, I don't think the Water District attorney has ever been present but that is neither here nor there. I don't think we need him. Whether he is privy to the correspondence or not, I have no idea. Bruce, do you know if Dixon has been involved in the correspondence?

MR. SECOR: No, we are still within the contract performance period and no litigation has been suggested or contemplated.

MR. DAVIES: All right, thank you.

SUPERVISOR FULLER: Are there any other questions? Okay, at this time I would ask those wishing to speak in favor to come to the microphone. This will be in favor of the water district extension for Haswell Farms. There were none. Is there anyone wishing to speak in opposition?

MR. DAVIES: I would like to make a comment and then I will speak to the matter of Haswell Farms Subdivision. It was last October that I appeared at a public hearing and made a statement. I subsequently made a foil request to determine if any of your staff people had responded to the comments that I had made. I found that one staff member had directed a memo to all the Town Board, as well as, the Supervisor which I perceived to be a personal attack on me with a number of personal opinions. I would ask that the Board request that staff address the facts and defer any comments about the individual making statements before the Board.

Now, with specific regards to this proposed water extension. I have given Mrs. Fuller and Mrs. Newkirk a copy of my complete statement with 3 attachments and I would ask that it be made part of this record or minutes of the meeting. I will just attempt to summarize the information that I have provided.

This is a summary of comments on the Haswell Farms water extension to Water District No. 1 of the Town of Bethlehem. I urge the Bethlehem Town Board acting in behalf of the tax payers and water users to withhold action on this water extension until an updated engineering report has been prepared and submitted to the Board for review and approval. The engineering consultant should evaluate and make recommendations as to 1. the adequacy of the existing sources to meet present and future needs based on separation of the Vly Creek sources and the new Hudson River infiltration gallery; 2. amount of water needed to be purchased from Albany; 3. short and long term obligations to sell Cogen water at a reduced rate; 4. need to expand the systems water storage; and 5. improvements needed in the distribution system to meet fire flow demand.

The justification for Bethlehem's new water project and the engineering report on the proposed Haswell Park water extension contains misleading and inaccurate information. Mr. Secor, Commissioner of Public Works, projected that Bethlehem would save \$160 million over 50 years by building a new system versus purchasing Albany water. We now find that we have built a new system, but we also need to purchase Albany water. Mr. Secor projected water consumption to be 6.5 million gallons per day in 1995. Our actual water consumption was 5.34 million gallons a day. Cogen was estimated to purchase 2.4 million gallons per day and they actually purchased less than 1.8. These projections were misleading and way off target.

The Haswell Farms water extension engineering report likewise includes misleading and inaccurate information. The report states that the new source will provide 6 million gallons a day and the clear well at the new water plant will provide additional storage of 2 million gallons. The safe yield of the new well, the infiltration gallery, has not been determined. A hydrologic investigation in 1992 made by the consultant to the Town, indicated that the safe yield may be as low as 4 million gallons a day. The clear well storage cannot be considered additional system storage. The Board has required separation of the Vly Creek source from the new supply. The 2 million gallon storage for the new system to meet peak demands above the 4.5 million gallons a day to 5 million gallons a day and fire flows, should be considered highly questionable. The engineer's report indicates that there is plenty of fire flow and pressure for Haswell Farms subdivision. Of greater concern to water district users would be the ability to meet fire flow demands throughout the whole system. The Town's 1983 engineering report indicates needed fire flows cannot be obtained. One problem appears to be lack of planning on the size of water mains of the district. For example, on Route 144 a 16 inch dead end water main is supplied by an 8 inch water main. This is equivalent to connecting a garden hose to a fire hose to fight a fire.

I urge the Board to postpone any further action on approval of the water extension to Water District No. 1 until an engineering update has been prepared on the adequacy of our sources, need to purchase Albany water and the needed improvements in our system. Water District tax payers have a bonded indebtedness obligation of 1 million dollars per year over the next 27 years to pay for the new water project. Will Water District tax payers be faced with more bonded indebtedness within the next 5 to 10 years and what would be that cost? And, I thank you.

SUPERVISOR FULLER: Thank you, Sherwood. Is there anyone else wishing to speak this evening? Thank you. In view of the fact that we have just been presented this document from Mr. Davies, I think we need time for the Board Members to at least see what you have presented. I would recommend that we not vote on this extension this evening. How do the rest of you feel about this? Are you prepared to vote?

COUNCILMAN PUTNEY: I am prepared to vote.

COUNCILMAN DAVIS: I didn't hear what you said.

SUPERVISOR FULLER: Sorry, technicality, I forgot to close the public hearing. May I have a motion to close the public hearing.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to close the public hearing at 7:50 p.m. The motion was passed by the following vote:

- Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis, Mr. Johnson.
- Noes: None.

*Kathleen J. Newtirk*  
Town Clerk

Supervisor Fuller convened the regular meeting following the close of the public hearing. Councilman Davis said she did not hear Councilman Putney's comment. Supervisor Fuller noted Councilman Putney was prepared to vote. Councilman Johnson noted he would like to review the material. Councilman Davis asked how extensive the material was. Supervisor Fuller asked Mr. Davies how extensive. She noted there were written comments by Mr. Davies, 4 pages, but there is quite a bit involved in each of the attachments. Councilman Lenhardt asked if it would be possible to have the information reviewed by the Engineering Division before the next meeting. Supervisor Fuller said this can be done and it will be placed back on the agenda of the 25th.

The motion was made by Mr. Lenhardt and seconded by Mr. Johnson to table the approval of the Extension to Water District No. 1 for Haswell Farms until the meeting of September 25, 1996. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis, Mr. Johnson.  
Noes: None.

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Supervisor Fuller noted the next public hearing is scheduled for 8:00 p.m. and therefore, the agenda items will be handled.

The next item was a recommendation from the Engineering Division, Terrance Ritz, for a change of house number from 31 Lansing Drive to 510 Dawson Road.

Terrance Ri  
change of h  
number 31  
Lansing Dri  
to 510 Dawso  
Road

The motion was made by Mr. Johnson and seconded by Mr. Putney to approve the change in house number of 31 Lansing Drive to 510 Dawson Road as requested by the home owner. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis, Mr. Johnson.  
Noes: None.

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Councilman Johnson said this is an excellent situation, the house is clearly on Dawson Road. He said it was a nice job in making this clear.

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The following item was a request from the Volunteer Fire Officers Association, Anthony Morrell, Secretary-Treasurer, for permission to go to bid for a new breathing air compressor.

Volunteer Fire  
Officer to go  
bid new breath  
air compressor

The following resolution was offered by Mr. Lenhardt and seconded by Mrs. Davis:

WHEREAS, the Town desires to advertise for bids for the purchase of a new breathing air compressor for the Volunteer Fire Officers Association, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 9th day of October, 1996 and that bids be received up to 2:00 p.m. on the 29th day of October, 1996 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis, Mr. Johnson.  
Noes: None.

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The next item was approval of Election Inspectors as recommended by the Democratic Committee of the Town of Bethlehem. Supervisor

Fuller indicated this is just the Election Inspectors, there are no appointments included for the Poll Clerks. Town Clerk Newkirk said she spoke with Mr. Clyne and he has been advised that we still need the Poll Clerks lists. Mr. Clyne said he was working on the list.

The following resolution was offered by Mr. Lenhardt and seconded by Mr. Putney:

RESOLVED, that pursuant to Article 3 of the Election Law, the following persons be and they hereby are appointed Election Inspectors as recommended by the Democratic Committee to serve for the period July 15, 1996 through July 14, 1997 as indicated on the list submitted by Democratic Committee Chairman, Matthew Clyne.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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Supervisor Fuller asked if anyone wished to address the Board before the next public hearing. She said she knows this is confusing and frustrating but it is required because of the public hearing notice.

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Hearing began: 8:00 p.m.

SUPERVISOR FULLER: Okay, it is 8 o'clock, we can now start our second public hearing. I ask the Clerk to read the call of the hearing.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING  
ON PROPOSED AMENDMENT TO THE CODE OF THE  
TOWN OF BETHLEHEM

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem Albany County, New York will hold a public hearing on September 11, 1996 at 8:00 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider Local Law No. 13 of 1996, Amending the Code of the Town of Bethlehem, Section 119-33, Schedule VII, Stop Signs on Maple Avenue at its intersection with Glendale Avenue; Section 119-36, Parking Prohibited, on the East site of Adams Street from Adams Place to a point 280 feet East on Adams Place and Parking Prohibited on the West side of Hawthorne Avenue from Adams Place to point 260 feet south of Adams Place; Section 119-39, Schedule XIII, Parking Limited on the entirety of Dorset Street to one hour on school days between the hours of 7:30 a.m. and 2:30 p.m.; and Parking Limited, on Longmeadow Drive, Evelyn Drive and Brockley Drive to one hour on school days between the hours of 7:30 a.m. and 2:30 p.m.

Public Hearing  
Parking prohib-  
ited and limita-  
tions Adams Pl  
Dorset Street  
school days

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

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who need assistance in order to participate should contact David Austin at 439-4131. Advanced notice is requested.

BY ORDER OF THE TOWN BOARD  
TOWN OF BETHLEHEM  
Kathleen A. Newkirk  
TOWN CLERK

- - -

State of New York)  
County of Albany )

MARY AHLSTROM of the Town of Bethlehem, being duly sworn, says that she is the Assistant Publisher 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 Aug 1996.

/s/ Mary A. Ahlstrom

Sworn to before me this 3 day of Sept 1996.

/s/ Kathryn Olsen  
Notary Public, Albany County

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STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, 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 Aug. 28, 1996, 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/ Kathleen A. Newkirk  
Town Clerk

Sworn to before me this  
5th day of Sept 1996.  
/s/ Catherine T. Picarazzi  
Notary Public

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The motion was made by Mrs. Davis and seconded by Mr. Putney to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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SUPERVISOR FULLER: Lieutenant Vanderbilt you may come to the front of the room. He is Chairman of our Traffic Safety Committee. If you would just give an overview to... I assume everyone here knows what it is all about but just in case.

LT. VANDERBILT: Good evening. Three things basically on the agenda tonight. The first being Dorset Street, no parking school days, specific hours as mentioned. The 3 other streets mentioned along this along with this, Brockley Drive, Longmeadow Drive and Evelyn Drive have had this prohibition for several years. In fact, they were passed under what was called a Traffic Ordinance at that time but due to an oversight never were converted over to a Town or local law when we adopted that several years ago. That is why I have asked for those other 3 items to be on the agenda tonight to actually adopt them as local law transferring them over from the Town Traffic Ordinance.

The reason those 3 were actually posted for this limited parking during school hours was that many overflow cars from the high school were parking on people's lawns, people that were parking cars there were smoking cigarettes throwing the cigarette butts on the lawns of the residents, sometimes beverage containers were left on lawns, ruts during soft weather and the residents were quite upset. So, the Town Board at that time passed the parking restrictions on those 3 streets.

Evidently the number of people driving to the high school has increased. The overflow has gone to Dorset Street which is the first left off of Longmeadow and the same problems that occurred on the 3 other streets were last year occurring on Dorset Street. And, the residents there asked us to do something about it and thus the Traffic Safety Committee is recommendation for limited hours and time of parking, the 1 hour during school days and during the 7 a.m. to 2 p.m. as mentioned.

SUPERVISOR FULLER: 7:30 a.m. to 2:30 p.m.

LT. VANDERBILT: 7:30 to 2:30. The second item on the agenda which was no parking on the west side of Hawthorne Avenue from Adams Place for a distance down Hawthorne Avenue and Adams Street on the east side for a distance on Adams Street was to answer a complaint we received regarding traffic parked on that street blocking other traffic from taking either of those streets. During times when the school board or the school district has large meetings, people tend to park on both sides of those streets and make it almost impassable for passenger cars and impassable for emergency vehicles such as ambulances or fire trucks. And, the initial complaint we got on this was from a fireman, in fact, who came through there on one night that there was either a school board meeting or some kind of a hearing that was causing much traffic in that area. Traffic Safety Chairman, myself and the Highway Superintendent met last year with Dr. Loomis and expressed our concern over that. And, we had researched the problem, come up with this recommendation. We have also, at the same time made some recommendations to the Highway Superintendent as to some striping on the inside of that triangle nearest the building where we can delineate parking spots for people using the Board of Education building to help the situation. We also, when we met with Dr. Loomis, recommended some things that we thought might help such as an agreement with the Delmar Reformed Church for utilization of that parking lot when they have large congregations of people there.

The third item and probably the one that most people are here about is Glendale and Maple. We had a request for a 4 way stop sign at

Glendale and Maple. Presently there are no traffic control devices on either of the 4 streets coming into that intersection. We did a traffic count back in July from the 27th of July to the 3rd of August and during one week period we counted 1117 vehicles on that roadway, which comes down to just barely over 12 vehicles an hour -- Which really isn't a lot. That is a little over 1 vehicle every 10 minutes. It is more congregated, of course, in the day time hours. During overnight hours there may be no vehicles within any one hour period. So, you may have during rush hour periods, as many as 20 or 30 vehicles during some rush hour periods. We looked at the speed also there and we found that out of that 1117 vehicles, only 12 vehicles were exceeding 35 miles per hour. So, we didn't see a speed problem. But, what we did see was a problem of intersectional right-of-way since especially the traffic entering from Maple Avenue has a sight distance problem to some extent. They cannot see specifically down Glendale either way. Also, people coming up Maple that are not familiar with the area, might not realize that they are entering an intersection and it might cause an accident at that intersection. The residents relate to us many cases of close calls there at that intersection. At our last Traffic Safety Committee meeting it was recommended to us by the residents that we take a count again after school started and our counters will be placed down again this Saturday to evaluate the traffic flow now that school is in session. As a measure to alleviate the problem, we did, however, recommend the 2 stop signs that are before you tonight on Maple as Maple enters from both directions onto Glendale. The Committee was in agreement at this time that that was at least a recommendation that we should put forth. Pending the results of our future count that will be taken throughout the next week, we may make other recommendations. But, at this time, the only recommendation we are wanting to make is the recommendation for the stop signs on Maple Avenue.

Does the Board have any questions?

SUPERVISOR FULLER: How long is the traffic counter placed there?

LT. VANDERBILT: It was in place for 1 week. We put them down on a Saturday and we take them up on a Saturday so we get a full 1 week count.

SUPERVISOR FULLER: Okay.

COUNCILMAN DAVIS: Will you have those figures available for us at the next meeting?

LT. VANDERBILT: Yes, I will.

COUNCILMAN DAVIS: Okay.

LT. VANDERBILT: In fact, many of the residents of the area received those figures when they attended the last Traffic Safety Committee meeting we had extras available for people that wanted them.

COUNCILMAN DAVIS: And, with Maple Avenue -- one end of Maple Avenue is a dead end.

LT. VANDERBILT: Right and the other end comes from Elsmere Avenue.

COUNCILMAN DAVIS: How many homes -- do you know roughly how many homes there are on Maple Avenue, on the -- I am not sure about my direction -- the west side?

LT. VANDERBILT: Between Elsmere and Glendale...

COUNCILMAN DAVIS: Between Glendale and the dead end.

LT. VANDERBILT: 6, 8... can the residents help me there.

COUNCILMAN DAVIS: I know how many there are, I just wanted to be sure they are on the record.

LT. VANDERBILT: I am sure some of the people that are going to speak from that area might better answer that question.

COUNCILMAN DAVIS: It is a very low number.

LT. VANDERBILT: It is a low number, 6 to 8 I would say off hand.

COUNCILMAN DAVIS: And, essentially the people who would travel that way would be people who live there, a few service people, people visiting -- it is not a through street.

LT. VANDERBILT: Right, there is no where to go. There is a barn at the end of the street.

COUNCILMAN DAVIS: Right

COUNCILMAN LENHARDT: I do have one observation, when one travels down Maple and you reach that intersection, it is obvious it is a dead end. There is a rather large dead end sign there which would make one slow up and possibly stop knowing that they have to turn left or right. It is just an observation.

LT. VANDERBILT: Thank you.

SUPERVISOR FULLER: Any other questions? There were none. Anyone wishing to speak in favor and if you would like, we can start with the Glendale Avenue/Maple Avenue. In favor, right now. Is there anyone wishing to speak in favor -- stop signs at Glendale?

MR. ROONEY: Speak to the Board. I am Terry Rooney. I live on Glendale. This is the 3rd session we have had regarding the stop signs. I can't really put forth the whole issue, maybe Chuck can help on that but it seems, the sense I get, is that the Traffic Safety Committee with all due respect sees the streets of Delmar as a traffic grid. To them, the streets of our Town are there to expedite the flow of cars, to get people to their destinations. The motorized public to their destinations efficiently. Now, I don't think they take into account enough the fact that pedestrians use the streets, bicyclists, children cross, often walk down the streets because there are no sidewalks. Our street has only sidewalks through half of it, Glendale Avenue.

And, I think it is a worthwhile goal, I guess, to get people to their destinations on the traffic grid at optimum speeds on major arteries but I don't know if it is applicable to residential streets like ours. And, what is happening on our street is we are beginning to see cut throughs because we have a couple of traffic lights nearby. And, you get the cut through, I think they register the speed at near 40 miles per hour, and you get the combination of the pedestrian or the child going across the street to see a friend that's a potentially lethal combination to me. And, the residents saw... in their wisdom saw the need for a 4 way stop sign, not so much to control the flow of traffic -- I understand theoretically how... what a stop sign or a red light is supposed to do -- I think the residents saw it more as let's discourage some of these cut throughs if they have to step on the brake, maybe they will take Kenwood Avenue or one of the major arteries rather than our little street. So, for what it is worth, and I really... I don't know I think we have to look at other needs. I guess I have said it enough. But, I think we have to look at the needs of everyone. I mean a UPS truck uses a street differently than an 11 year old and that's obvious. But, I think sometimes we have to think about it.

SUPERVISOR FULLER: Thank you. Come ahead.

ATTORNEY KAPLOWITZ: We have to record your voice on the microphone.

MR. HINSDALE: This one.

TOWN CLERK NEWKIRK: The silver one is the pa.

MR. HINSDALE: I am Donald Hinsdale. I live at the corner of Glendale Avenue and Maple Avenue and the problem on the street on Glendale and Maple is we get a lot of cut through traffic. People trying to avoid the stop sign at Kenwood and Glendale. People taking a short cut to Kenwood Avenue or to Herber Avenue. People who want to avoid the traffic light at the intersection of Elsmere and Kenwood

Avenue. And, a number of these people use Glendale Avenue and Maple Avenue like it is the State Thruway. And, during the school year, we have a lot of kids that are walking to middle school, kids that are walking to Elsmere school. We get a lot of people just walking for exercise, people walking their pets, we get joggers, bicyclists, skate boarders, people on their way to work. We get everything and on the lower half of Glendale Avenue there are no sidewalks. On Maple Avenue on the lower half there is a sidewalk on one side only. On the upper part, which is the dead end part, there are no sidewalks. I am in favor of the stop signs to prevent accidents at the intersection there between vehicles but I think the real safety problem has to be addressed by stop signs on Glendale. The Traffic Committee at this time chose not to make that recommendation but I think that's what the residents agree needs to be done to protect the children and adults and whoever uses the street. We have more children in the area now than any time in the last 40 years. And, a lot of... we get children even from neighboring streets that come over to play with the kids on the street. My family has lived at that intersection for the last 40 years and I have never seen as many kids as we have now. I speak in favor of the stop signs but I think we really need stop signs the other way too. And, I think that sooner or later there is going to be a serious accident because people use the street so much as a short cut and they just have no regard for the children on the street that might be near the street and just have no regard for the speed limit. Thank you.

SUPERVISOR FULLER: Anyone else wishing to speak in favor?

GENTLEMAN: Just this third part or the whole thing?

SUPERVISOR FULLER: We will just do Glendale Avenue and then we can move on.

MR. BROWN: Hi, my name is Jeff Brown and I live at 9 Glendale Avenue. I appreciate the work that the Traffic Safety Committee has done so far to assess the situation. They put counters down twice because one time the counter didn't work quite properly. So, they have done a lot of work and I appreciate all of that. I attended the first meeting that the Traffic Safety Committee had and I think at that point that's when I heard something about the stop sign creating a false sense of security for people in the area immediately affected by that where they may let their children out in the street more than they might not if there were not a 4 way stop sign or a stop sign there. And, I can appreciate that. Right now because, as has been mentioned, there are no sidewalks on either side of the street between Maple and Herber, so in those cases, I am obligated when I take my children for a walk to walk in the street if that is where I choose to walk and that's where I do choose to walk, otherwise I am on the sidewalk. My concern about a false sense of security with only 2 stop signs is that in the event that only 2 are placed on Maple, those people who use Glendale as a cut through would, themselves, develop a false sense of security in that they know that those stop signs now exist. There is much less potential for a collision of some kind there and then they may develop a false sense of security and use Glendale even more directly as a cut through than is the case now. So, I think there may be 2 questions of a false sense of security when it comes to stop signs. I am glad that the Traffic Safety Committee will visit the issue one more time and will give more consideration during the academic year as well. But, since there are no sidewalks right now, I am one of the people who will use the street as a pedestrian thoroughfare because I have no choice if that is where I choose to venture and I do. If there are 4 way stop signs, I can assure you that I will still be with my children on a walk down there so at least I, for one, wouldn't turn that street into a play ground necessarily. If there were sidewalks I wouldn't be as concerned. So, thank you very much for visiting the issue.

SUPERVISOR FULLER: Thank you. Anyone else wishing to speak in favor? Anyone wishing to speak in opposition of Glendale and Maple? There were none. Okay, we will go on to the next which is the educational center building on Adams Street, Hawthorne Avenue. Are there any questions? Anyone wishing to speak in favor of Parking Prohibited?

MR. LEWIS: Yes, my name is Allen Lewis. I live at 41 Hawthorne. Anyone that has driven down by the Board of Ed building on Hawthorne, we live on, when a board meeting is taking place has been frustrated, I am sure, from the parking. Unfortunately, we have a lot of people that not only don't stop at stop signs, they just go right through, but also they just park on both sides of the road and they seem to follow the philosophy that if the car is stopped and they are not in it, then it is parked no matter where it is. There have been a number of times when I have been frustrated going through there and I can live with the frustration, as all of us can, but I come to you tonight for is a matter of safety. What happens when they are parked on both sides and fire truck cannot get through. Okay, it is a small delay. They have to go around the block or they have to weave through. Or, an ambulance going through that has to slow down. And, for those that say it is only a couple of seconds, I would remind you that a couple of seconds can be the matter of life and death. So, I want to thank the Traffic Safety Committee for making this proposal and I would urge the Town Board to adopt it. I would also ask the Police Department to monitor the situation once this law is in effect because my concern also is that the double parking just move down the street beyond the limited space that you are... that is in the proposal. So, I would urge the Police Department to monitor it very well to make sure that that doesn't happen as well. I thank you.

SUPERVISOR FULLER: Thank you. Is there anyone else wishing to speak in favor, Adams and Hawthorne? There were none. Is there anyone wishing to speak in opposition? There were none. Okay, Mr. Groves, I owe you an apology. I told you you would be first.

MR. GROVES: Maybe I was a few minutes ahead of time. Concerning the present parking restrictions of 1 hour from 7:30 a.m. to 4:30 p.m. on Brockley Drive on school days in our neighborhood. We are in general agreement and feel that they should not be liberalized at all. We feel that they have been well administered by the Police Department and we also call your attention to the fact that we are close neighbors to the high school and that the present parking limits were obtained by us with almost 99 percent of the signatures on Brockley Drive over a few months time. Also, we would feel that it is not a matter for you to be concerned with directly but free school bus transportation is provided to all areas of the school district. We feel that no further areas should be provided at public expense as requested by a Glenmont senior student as he wrote about in the Spotlight recently. We do feel that on Brockley Drive it might be necessary to put up speed limit signs because if you walk at all on the street and some residents do and walkers to the high school also do, sometimes it is a close call particularly when cars are passing. Since there are no sidewalks there at all, you... I haven't had to jump out of the way but I have seen times when I thought maybe I should. Now, I don't know anything... I wouldn't say that this situation is obtaining in the winter weather because traffic isn't quite as heavy then. But, traffic is heavy on Brockley Drive and since the stop light has been installed on Delaware Avenue there at Van Dyke, we do see quite a lot of traffic using our street to get over... our children to get over to the further area north of the town. Thank you.

SUPERVISOR FULLER: Thank you, Mr. Groves. Is there anyone else wishing to speak in favor of the limited parking? I wondered with all the high school students in the room if someone were going to come forward.

MR. TAFT: Well, I wonder if this is the appropriate time to speak. I really have more of a question and an informational statement more than speaking in favor or opposed. Is this the time?

SUPERVISOR FULLER: Go right ahead.

MR. TAFT: My name is Brian Taft and I am President of the Student Association at Bethlehem High School. And, I just thought it appropriate to let the Board know that the parking problem has been quite visible for the past 2 years really and after some close research of that recently, it has been found to be not necessarily the seniors or the juniors, it is a group of students who have just gotten their license and really kind of... are eager to drive to

school. So, we have attempted to address that issue through some parking... some restructuring of that. So, what happened this year, is that the school is building a whole new lot as an extension of the faculty lot. Presently the faculty parks in the front lot and they will be moved to the back. Now, the whole front lot which currently 90 seniors are allowed to park in, will be upgraded to 180 spaces. So, really twice the amount of seniors will be able to park there. Also, VanDyke will be limited only to juniors. And, no underclassmen will be able to drive whatsoever. That's the proposed plan. So, it is my opinion that the number of cars will significantly decrease.

I cannot speak to the Brockley limitation on parking. I can only say that it is my belief that the number of cars going to the school will decrease. My question was, let's see, in the agenda it's stated as parking prohibited on Adams Street and limited on Dorset, Longmeadow, Evelyn and Brockley. And, I am wondering if they could -- I don't know if I could yield to the officer or to the Board on the distinction between prohibited and limited and maybe what that limited would mean for Brockley.

SUPERVISOR FULLER: Limited is when...

LT. VANDERBILT: Limited only deals with certain hours of the day and days of the week. Prohibited is at all times.

MR. TAFT: Okay, I see. So, that would be...

SUPERVISOR FULLER: One hour limited -- can you tell him the details on where you are limiting the parking on Dorset? Brockley and Longmeadow have been in effect for a while.

LT. VANDERBILT: Well, people... the limitations on Brockley, Longmeadow and Evelyn which are 7:30 a.m. til...

SUPERVISOR FULLER: 2:30 p.m.

LT. VANDERBILT: On school days only. Days that school is in session, one hour parking.

MR. TAFT: Okay.

LT. VANDERBILT: You can park there for up to an hour during those hours but no more than an hour.

MR. TAFT: Okay. Thank you, that was more of a question and informational for you guys. Thanks.

SUPERVISOR FULLER: Thank you, Mr. Taft.

COUNCILWOMAN DAVIS: Brian...

SUPERVISOR FULLER: Curiosity, with the group here tonight, how many drive to the high school? Where are there any... there's not freshman and sophomores here tonight.

COUNCILMAN LENHARDT: Most of them are seniors, I believe.

SUPERVISOR FULLER: These are the drivers. Well, now you can turn around and look at the residents.

COUNCILMAN DAVIS: I have a question for Brian.

SUPERVISOR FULLER: Oh, I am sorry.

ATTORNEY KAPLOWITZ: Mr. Lewis, I just wanted to add, every time the Town puts up a stop sign or almost every time, the Supervisor or Town Board Member requests the police to try and keep their eye open for a few days and pay a little extra attention. The interesting part is that in almost every instance, the first person to get a ticket is someone who lives on the street. And, I can tell you half a dozen times over the years, when the person was somebody who was here speaking in favor of the stop signs gets the first ticket for going through. So, they do try to keep their eye open for a few days.

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COUNCILMAN DAVIS: Allen, drive real carefully in the next few weeks.

ATTORNEY KAPLOWITZ: It's amazing how often that happens.

COUNCILMAN LENHARDT: I hope they are ever vigilant.

MR. LEWIS: But, I have almost been rear ended several times because I do stop at stop signs.

SUPERVISOR FULLER: In my other life on the School Board, I can well relate to the traffic problems that were there, especially even during the day when you see all of the administrators in a meeting. So, they are parking -- see the administrators are creating parking problems too, high school students.

COUNCILMAN JOHNSON: I have a comment for Mr. Lewis. I don't know if it was coincidence or what... I don't know if you are aware, this afternoon there was a fire down at Adams Street and Birchwood Place. The Delmar Fire Department had to go right down through that intersection that you were talking about.

SUPERVISOR FULLER: Doris, sorry.

COUNCILMAN DAVIS: Brian, I just had a question for you, kind of informational question. You said that the new plan had been proposed. Do you have any idea when that will be determined finally?

MR. TAFT: Well, construction on the lot has already been started and the date for that to be finished is October 1st, right around then. So, on that date, the whole front lot will be open to seniors. And, it is also on that date that VanDyke will be restricted to juniors.

MR. DOWNEY: Can we still speak in favor of these?

SUPERVISOR FULLER: Yes.

COUNCILMAN DAVIS: Thank you, Brian.

MR. DOWNEY: My name is Matt Downey and I live at 6 Dorset Street. Our concern is parking on both sides of the street would really limit the accessibility of emergency vehicles. We have submitted pictures to Officer Vanderbilt in the past showing where the restriction really has occurred on actual days. We are just asking for what is currently in place on Longmeadow, Evelyn and Brockley which is... that street is further away from where Dorset is and we would just like the same opportunity to have that privilege to be able to access our street without any concerns. I have 3 young children that are home during the day and, excuse me. Last spring when all that parking was occurring, I had real reservations of allowing them out in front, even supervised, because of the fact if they ran out quick between 2 cars parked there, another vehicle coming down could have hurt them. We are just asking that you take their safety into mind and that you afford us the same rights that are already existing further down Longmeadow, Evelyn and Brockley. And, I hope that the high school does deal with the issue of the parking but there is no guarantee that they are going to accept this proposal. There also is no guarantee or how they would enforce VanDyke being restricted to juniors. I don't think they have the right to do that unless they came before the town. Am I correct on that? Would they be able to restrict VanDyke without?

SUPERVISOR FULLER: I believe they can. They would have to come through the Police Department.

MR. DOWNEY: So, I don't know if that's a...

SUPERVISOR FULLER: We are enforcing it now on VanDyke, the Police Department.

MR. DOWNEY: What?

SUPERVISOR FULLER: We are enforcing the parking on VanDyke Road now, as far as whether they are juniors or sophomores or freshman.

MR. DOWNEY: Right, that's what I am saying. I don't know how they would be able to enforce that.

SUPERVISOR FULLER: That idea of enforcing it comes from the school district. They need to take the responsibility for determining which year student is parking on VanDyke Road.

MR. DOWNEY: Right. And, the projections for the high school also include that the population is going to increase over the next few years. It is only going to become a worse situation within the whole Brookfield development. And, I would appreciate your support of this.

SUPERVISOR FULLER: Thank you.

MR. WELCH: My name is Dick Welch. I am at number 2 Brockley Drive. I don't know how many years ago but my wife, Christine, myself and John Dorman at number 5, were the main drive on getting the restrictive signs put up. Brockley Drive is over 50 years old and wasn't designed for parking. It was designed as access to the main road to your parking lot and I guess Lt. Vanderbilt said, well it was ruts, butts and trash. It was also a problem with oil delivery, UPS trucks, and fire access. So, I am in favor of changing the Traffic Ordinance to Local Law for Brockley Drive and also for Dorset Street. Okay, thank you.

SUPERVISOR FULLER: Thank you. Is there anyone else wishing to speak in favor? Anyone wishing to speak in opposition? Okay. I am sure the temptation is great in this room but they are all being very cooperative this evening.

Okay, may I have a motion to close the public hearing?

The motion was made by Mr. Putney and seconded by Mr. Johnson to close the public hearing at 8:34 p.m. The motion was passed by the following vote:

- Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis, Mr. Johnson.
- Noes: None.

*Kathleen A. Newkirk*  
Town Clerk

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The Supervisor convened the regular Town Board meeting following the close of the public hearing.

Supervisor Fuller asked the Board if they wished to vote on the previous public hearing. She also asked if they wished to vote on them separately.

Adoption of  
Local Law 13

Councilman Lenhardt noted he did not have a problem on voting for all of them especially based on the input received tonight. He said he would like to make a comment on the Glendale Avenue one. He said he would like to see some way of eliminating or reducing the cut throughs. A 4 way stop sign, according to Councilman Lenhardt, seems rather much. He said he would be more in favor of seeing the stop sign on Glendale Avenue as opposed to Maple. He said hearing no objections to that tonight, he would go along with the residents.

Councilman Davis had a question for Lt. Vanderbilt. Mrs. Davis said she lives near this area, walks it and bikes it. She said she tries not to drive it because it is not a reasonable cut through for her. She asked if there was a stop sign at either end -- one at Kenwood and Glendale and one at Herber and Glendale. Lt. Vanderbilt said there is one at Kenwood and Glendale, noting he is not sure about Herber and Glendale. The audience said there was not a stop sign at Herbert and Glendale. Lt. Vanderbilt said several members of the Committee tried to find out if you could actually save time. He said none of them were able to realize anything more than 2 or 3 seconds. Councilman Davis said it is a perception more than anything. Lt. Vanderbilt said that is what they believe also. He said they perceive they are saving time because they are not sitting in a line of traffic, however, they are not going as fast on that road as they would be on Elsmere Avenue. So, they are not really saving time, as well as, the difficulty getting out onto Elsmere Avenue from Herber Avenue. Councilman Davis said they still have a stop sign and thanked Lt. Vanderbilt.

The motion was made by Mr. Lenhardt and seconded by Mr. Johnson to adopt Local Law No. 13 of 1996 relative to the installation of stop signs on Maple Avenue at its intersection with Glendale Avenue from the east and the west, with the traffic counters being placed and a revisiting of this issue. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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The motion was made by Mr. Johnson and seconded by Mrs. Davis to adopt Local Law No. 13 of 1996 relative to providing parking prohibited at all times on the east side of Adams Street from Adams Place to a point 280 feet east of Adams Place and to add prohibit parking at all times on the west side of Hawthorne Avenue from Adams Place to a point 260 feet south of Adams Place. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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The motion was made by Mr. Putney and seconded by Mrs. Davis to approve the adoption of Local Law No. 13 relative to adding limited parking on the entirety of Dorset Street to 1 hour on school days between the hours of 7:30 a.m. and 2:30 p.m.; limit parking on Longmeadow Drive, Evelyn Drive, and Brockley Drive to 1 hour on school days between the hours of 7:30 a.m. and 2:30 p.m. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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Councilman Davis said the request has been made and she asks that he pursue the monitoring of the situation to be sure that people in meetings subsequent to this don't park in those areas on Hawthorne Avenue and Adams Street beyond the actual stripping. Lt. Vanderbilt said they can monitor that but it would be difficult to enforce anything there unless they are actually obstructing traffic flow at that time. He said they did not ask to extend past the limits that they measured because they did not want it to interfere with people having guests parked in front of their own houses. Councilman Davis said this was true. Lt. Vanderbilt said basically the area they recommended does not interfere with any residences. He said it goes down to a point just past the property of the school district on the opposite side of the street. Councilman Davis said she was thinking about situations when meetings are to be held at the administration center. Lt. Vanderbilt said they can keep an eye on that. Councilman Davis said she feels the Superintendent of Schools should be requested to announce to people in the audience that this parking is in effect. She asked if the school district has any kind of arrangement with the Delmar Reformed Church to use the parking lot. Supervisor Fuller said they do have such an arrangement. Lt. Vanderbilt said when they have school bus driver meetings at the building, the buses park in the church lot. Supervisor Fuller noted the Reformed Church has always encouraged them to use the parking lot. She said what happens is the people don't want to have to walk that far. A resident suggested the Town Board urge the school district to consider moving the Board of Education building. He feels it should be on the campus of the high school or one of the other schools. Supervisor Fuller said she thought this was a topic in discussion. The resident said he also suggested that on the night of a school board meeting, they could have no parking on the whole side by placing cones on the street. Lt. Vanderbilt noted the Police Department has the authority to put up emergency no parking signs on sticks if there is going to be a problem. He said as they investigated the situation, some residents did feel that the school board should move the meeting with large attendance to another location. He further noted some people felt they didn't move it because they did not want large attendance.

Supervisor Fuller said she will contact Dr. Hunter in regard to the parking changes at the high school and when, in fact, it will be happening and if it might resolve some of the problems.

Supervisor Fuller thanked everyone for attending.

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Hearing began: 8:44 p.m.

SUPERVISOR FULLER: We are now off to our next public hearing. I will ask the clerk to read the call of the hearing.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING  
ON PROPOSED AMENDMENT TO THE CODE OF THE  
TOWN OF BETHLEHEM

Public Hearing  
on Local Law 14  
Fences

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem Albany County, New York will hold a public hearing on September 11, 1996 at 8:30 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider Local Law No. 14 of 1996, Amending the Code of the Town of Bethlehem, Article XVI, Section 128-67, Front Yards; Article VII, Section 128-76, Side Yards; and Article XVII, Section 128-82, Rear Yards with addition of paragraph "D" pertaining to non-conforming fences.

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

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who need assistance in order to participate should contact David Austin at 439-4131. Advanced notice is requested.

BY ORDER OF THE TOWN BOARD  
TOWN OF BETHLEHEM  
Kathleen A. Newkirk  
TOWN CLERK

- - -

State of New York)  
County of Albany )

MARY AHLSTROM of the Town of Bethlehem, being duly sworn, says that she is the Assistant Publisher 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 Aug 1996.

/s/ Mary A. Ahlstrom

Sworn to before me this 3 day of Sept 1996.  
/s/ Kathryn Olsen  
Notary Public, Albany County

- - -

STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, 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 Aug. 28, 1996, 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/ Kathleen A. Newkirk  
Town Clerk

Sworn to before me this  
5th day of Sept. 1996.  
/s/ Catherine T. Picarazzi  
Notary Public

- - -

The motion was made by Mr. Johnson and seconded by Mr. Lenhardt to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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SUPERVISOR FULLER: Mr. Flanigan.

MR. FLANIGAN: As you are aware, back in December of last year, we amended some articles -- the same articles we are looking at tonight -- to take care of a problem that has come into town with the confinement of fencing around some residential districts which really didn't sit too well. And, we are talking about amending Section 128-67, Front Yards; Section 128-76, Side Yards; and Section 182 Rear Yards. They are all the same and we amended that last year to make the point that the use of dangerous materials such as crushed glass, razor wire, electric fences and barbed wire were prohibited. This section shall not apply to confinement of livestock or other farm purposes where permitted. 2. Enclosure of public utilities. 3. Enclosures of properties or storage of commercial or industrial users. And, then there was an a. if barbed wire or razor wire is used it shall be canted in.

We had more discussions at the time that we adopted this and we said well, let's try to get rid of what the problems are out there and to back and be able to do something about it. So, there have been some heavy discussions about this and we have come up with the point of what tonight's hearing is and we are looking to add a section d. amortization. And, it states:

1. To avoid hardship, owners shall be allowed to retain non-conforming fences which have been in existence prior to the effective date of this local law for a period of one year. That means that the owners who have these fences up adjacent to residential districts and there are really one 2 of them that I am aware of at this time, would have 1 year from the date of the passage of this, if you see fit to pass this section in the ordinance, to remove it. And, then it says:

2. The Building Inspector shall review and inspect existing fences for their conformance with this law and shall by Certified Mail, return receipt requested notify the owners of the non-conforming fences of the character of the non-conformer. He shall also notify the owners of the date of which the conformance must be accomplished. And, then we have section 3:

3. This "D" shall apply only to those fences referred to in paragraph B.

So, we are only talking about these fences that have been put up with the barbed wire on top of them that we would be out looking at. We would not be looking at the wooden fences, the stockade fences, those fences out there, only be those wire fences with the barbed wire that has been put on top of them. In both cases, it is the 3 strand barbed wire that runs through there.

This local law shall take effect immediately upon the filing with the Secretary of State of the State of New York.

Now, when you discuss amortization, and you look back and there are many cases on amortization and it was mostly in you had 5 years to get rid of your signs, your oversize signs, a lot of town did that locally, Guilderland, Colonie -- ours has been doing it by... as we went along. There are other things that amortization works at and we felt that, well let's find out how much this is going to cost someone for the fencing that is put up. Now, the 2 fences that are up at this time and I shouldn't specifically say we are only after those 2 fences, because there may be more out there. There are more fences out there than that. But, I did make some contacts around to some of the fence companies to find out actually how much money we are talking about if someone has put these fences up because usually when you get into court and there is a battle about this, they want to know how much money you are costing somebody by making them take it down. So, I did some homework and I contact the AFSCO Fence Company and this is a company the Town does business with, that put up our chain link fences for the parks and things like that, and they gave me a price of \$90.48 for a roll. Now, barbed wire comes in heavy rolls. \$90.48 for for 1320 feet. So, if you figure some of the

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fences may be 4,000 feet that are out there -- just as a rough thing -- so you are probably talking \$400 or \$500 on one case and maybe there is more on the other one. But, you are talking about 3 strands. You may be talking \$600 or \$700. which would be the worst case scenario if they had to take that wire down. Now, we are only talking about the wire part. We are not talking about the arms that go on top of it to sit there, because in most cases and I did discuss this with the fence companies that I did talk to, that getting those arms off of there -- they usually come in one piece, the 6 foot pole comes with the arm attached to it -- so you would have to replace the whole pole, and I think we might be getting into a bigger problem there. But, to at least get the wire off those would be a great point at this time. But, that's what we.. that's where we are aiming right now and we had a lot of discussion legally and some homework done to find out court wise and enforcement wise if we could do this and it was felt that we could. And, we came up with the year figuring let's try the year. It's been... some of them have been up a couple years now already.

COUNCILMAN PUTNEY: A year is the shortest time that we feel that we can amortize?

MR. FLANIGAN: Yes, we had discussed 5 years, we discussed 3 years, 2 years and we got down, well let's try 1 and see what happens. You know, who knows what is going to happen on this. We didn't find anything specifically on fences but there is a lot of it out there... court cases on signs, different things like that where towns have said you have 5 years, 10 years to get rid of them, that type of thing. But, we felt we would try this year.

COUNCILMAN PUTNEY: What is the penalty for failure to comply?

MR. FLANIGAN: It would be \$350., first offense for non-complying. But...

ATTORNEY KAPLOWITZ: Up to \$350.

MR. FLANIGAN: Up to \$350 but you could go back... you usually would go to court with it and then there would probably be a back and forth on there for a while. But, on the fine it would be \$350. But, I see what you are looking at, would it be worth to take your chances but then you could file right against it again if they didn't do it.

COUNCILMAN PUTNEY: But the penalty is governed by Town Law or State statute?

MR. FLANIGAN: Yes, it is by Town Law. It is in our ordinance, yes it is. Any questions from the Board?

SUPERVISOR FULLER: Okay. Are there any questions from the audience? Yes.

MR. LAVINE: My only question would be, have you talked to these people and asked them if they would... are they against taking this fence down? Are they putting up any kind of resistance? Or, is it the people that have the problems with the fence or are they willing to comply?

MR. FLANIGAN: Out of the 2 fences that are new... I have talked to one of them, I have written them and they just don't want to do it.

MR. LAVINE: Okay.

SUPERVISOR FULLER: Sir, may I have your name for the record? We need it for the public hearing transcript.

MR. LAVINE: Davie Lavine.

SUPERVISOR FULLER: Thank you, Dave.

ATTORNEY KAPLOWITZ: Mr. Lavine, the 1 fence that precipitated this, I spoke with the attorney for the owner several times and his answer was my client will not take the barbed wire down.

SUPERVISOR FULLER: Any other questions?

MR. SCHRADER: I have a question. On the \$350 fine... I am Carl Schrade.

ATTORNEY KAPLOWITZ: Hello, Carl.

MR. SCHRADER: Is the \$350 fine for every day that they are in violation?

MR. FLANIGAN: Correct.

SUPERVISOR FULLER: Yes, it is.

MR. SCHRADER: Okay, so that makes a difference. That... yes, okay.

MR. FLANIGAN: Or 15 days in a row.

MR. SCHRADER: I think a year is reasonable because you are dealing with something that is very dangerous, dangerous to kids, kids have a propensity to climb things and it's... you can't keep them out of trees and they love to climb fences. And, I know as a youngster, I had a cousin who was climbing a fence at the Saratoga Race Track and he got tangled up with the barbed wire and it cut his arm from about here right to the wrist. He still bears those scars today and I have 2 grandchildren that... whose home abuts this one fence that we are talking about, so I think a year is a very reasonable period of time to let the fence stay up and give the owner an opportunity to take it down within the year, so I am in favor of the ordinance.

COUNCILMAN DAVIS: Not take the fence down.

MR. SCHRADER: No, no, the barbed wire, just the barbed wire that's really the danger. It's a... I think barbed wire is a very hostile act anyway to neighbors and if everybody decided to put up a barbed wire fence in a residential district, why we would be in big trouble. But, anyway, that's beyond the point. I think the year is a reasonable period of time and I am in favor of it. Okay, thank you.

COUNCILMAN PUTNEY: Ted, did you have something? Okay, thanks.

SUPERVISOR FULLER: Thank you, Mr. Schrade. Is there anyone else wishing to speak in favor?

MR. WELCH: Well, I just have a question. You were saying about... Dick Welch again. Replacing poles because you have this arm where the barbed wire is?

MR. FLANIGAN: Correct.

MR. WELCH: Well, wouldn't it be simpler just to cut the arms off and put a little rubber cap over them instead of replacing them?

MR. FLANIGAN: I don't disagree with you.

MR. WELCH: I would think that would be the way to do it.

SUPERVISOR FULLER: That has been suggested.

MR. FLANIGAN: That would be the aesthetic way to do it also.

MR. MASTRIANI: Hi, John Mastriani, 20 Turnberry Drive. I live in Cedar Ridge and look at a barbed wire fence every night when I come home and I feel strongly in favor of passage of the ordinance. I feel that barbed wire fences kind of belong in a penitentiary not in a residential community. And, strongly encourage the board to enact the legislation. Thank you.

SUPERVISOR FULLER: Thank you.

MR. MOONEY: My name is Brendon Mooney. I have spoke before the Board on this issue regarding the barbed wire fence. The pros and cons have all been spelled out before by myself in correspondence and other neighbors that have been impacted by this unwelcome barrier in

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our neighborhood and attorneys on both sides, as well, have exchanged opinions on this matter, I am sure. I am not going to reiterate the pros and cons on the matter, however, I just want to remind the Board that you are our elected officials, we voted for the Board, the residents of Dover Drive have made their sentiments known on this particular issue. The individual who has moved into town and erected the fence is not a resident of Delmar -- he does not pay taxes in Delmar and he does not vote for your seats on the Board. I think that the headlines in the Spotlight kind of say it all... Dover Drive gets irked by this whole fence. It is really a quality of life issue for us and it also is an issue where we would hope that our elected officials reflect the will of the people not only on Dover Drive but as some of the other people this evening also indicated, from throughout the town because this is certainly something that, as Mr. Flanigan suggested, could spread to other areas of the town as well. Thanks very much.

SUPERVISOR FULLER: Thank you, Mr. Mooney.

MR. CALDWELL: I am Brian Caldwell at 46 Dover Drive. And, I don't want to... I know this has been discussed many times before. Just a few things I would like to point out... there are about... on the Dover Drive side there are about 8 homes that are impacted by the barbed wire fence. While we were sitting here I was trying to count the number of children that those 8 houses contain. I lost count somewhere about 20. There are at least 8 children under the age of 8 years old whose houses abut that barbed wire fence. As some of you probably know, Dover Drive while not a main thoroughfare, is a relatively busy side street. I have a 5 year old daughter and I think I speak for my neighbors in saying we actively discourage them from going anywhere near that road because we are afraid they are going to get hit. Someone has been hit on this road once before. We strongly encourage them to do their playing behind the house, right where that fence is located. And, you know, I am deathly afraid, we tried to keep a good eye on our kids, but as you know, you can't watch them every minute. And, all it takes is a couple of kids climbing a fence to have the kind of accident that this other gentleman described. My mother, who passed away a few years ago, for her entire life, bore scars where her whole lip was basically ripped away by climbing a barbed wire fence when she was a child. So, you can imagine, the impacts that it had on me when I saw this barbed wire fence go up less than 4 feet away from my... from my... the... one of those swing set/jungle gym things. So, I strongly encourage you to vote for the removal of the 2 remaining fences. It was called a dangerous materials ordinance because it is a dangerous material and there are 2 neighborhoods that are still significantly affected by this. As a side light, I know it is impossible to or very difficult to assign a value to what a barbed wire fence means for the value of a home, but, I appreciate your passing this ordinance last year. I cannot imagine any positive for anyone looking for a new home to find a barbed wire fence behind a home in a neighborhood. The 2 neighborhoods that are impacted by these fences, in my opinion, are now significantly disadvantaged. I think by passing this ordinance you will complete it. Thanks.

SUPERVISOR FULLER: Thank you.

MR. GUZIK: Good evening neighbors. I am Jerry Guzik, 34 Dover Drive. I spoke in this room a few months ago. I took the penitentiary look stand the last time I was before you. I have had many months to contemplate that position and I think that I have gravitated less from the aesthetic sense that John talked about to the issue of harm that is inflicted upon the young children. Now, I have a senior and a sophomore at home, they don't go and play in the backyard any more but I have a lot of little neighbors who come running over and eat my cherry tomatoes once in a while and they are kind of close to that fence and I wouldn't want them visiting my yard for a treat and somehow inflicting harm upon themselves with that particular fence. In terms of costs and the issue of economics, it is an aesthetic issue. I had a neighbor who was contemplating selling his house because of this very issue. And, then upon advice of a realtor, said well might not be good to have the open houses for people to come and take a look at the barbed wire fence. I have contracted with Long Lumber and I am currently going to construct,

myself with John's good advice, a cedar fence that is going to cost me approximately \$1,400 for a 56 foot run because we are tired of looking at that fence. It is ugly, it is offensive and it is harmful. I am very much in favor of the amendment that you are considering this evening. Thank you.

SUPERVISOR FULLER: Thank you.

MR. DEMPF: Very sorry about those tomatoes, we will... Chris Dempf, I live at 40 Dover Drive and I have a couple kids that are here tonight, Clare and Peter and we have one that is about 9 hours old.

SUPERVISOR FULLER AND BOARD: Congratulations.

MR. DEMPF: That is an addition to the neighborhood.

SUPERVISOR FULLER: And, you are here with us this evening.

MR. DEMPF: I am going to turn them loose in a minute. I have something I would like to hand up, prepared on behalf of Sandra and Joan Bonville who weren't able to be here tonight. But, I would like to read it because it does point out a couple concerns with respect to the 1 year period of time. Some people feel that's too short. The Bonvilles do and other people in the neighborhood do also. The other point that they...

SUPERVISOR FULLER: Too short or too long?

MR. DEMPF: Too long. The other point that they make is the brackets are still a hazard. Granted the barbed wire coming down is a step in the right direction. But, the brackets are still a concern. I think rather than reading this into the... reading this now, I would like to just hand it up for the Board to consider and I presume that you will distribute this amongst the Board Members and take the considerations in here accordingly. I think the... with respect to this letter, the Bonvilles want... suggest that 500 feet be removed every month. That's something that... amortizes it itself over a period of time. My comment to that... in addition to that would be to start it on Dover Drive or start it on Elm Avenue which is where the residents are. The other point is that this barbed wire was installed it seemed when the legislation was before this Board in December, it seemed like in November when there was an understanding that this legislation would be passed, there was a rush to put up this barbed wire fence and to put up the brackets. So, some of this hardship so to speak is self-created, self-imposed. And, I don't think that the Board should have too much sympathy for something that is a self-created hardship so to speak. Thank you very much and I am going to hand this submission up on behalf of the Bonvilles.

SUPERVISOR FULLER: Thanks, Chris.

MR. JUNCO: How are you doing, my name is Bob Junco. We live at 400 Elm Avenue. This fence is in our backyard and it ends in our backyard. We are in the process now of trying to sell our house to move on, you know. Two or 3 open houses... or people have come to look at the house and they have all commented on the fence and saying wow, you must have a lot of trouble with your neighbors or gee I don't want that in my backyard so my children can get hurt on it. You know, financial hardships, financially we are not being forced to move but we want to move to improve our lives. So, this is a hardship to us and I urge the Board to make all the recommendations. Thank you.

SUPERVISOR FULLER: Thank you.

MR. CORNELL: Hi. I am Jack Cornell. I live on Elm Avenue. I am not affected by the fence directly. Someone mentioned earlier that quality of life is important and Delmar is getting a reputation with 2 fences that have a hostile barbed wire on them. It is incredible that this community has something like that in it. You know, I look on it through the neighbors yards across the street from me. I have friends that comment on it. I live across the street from Bob and clearly when they put the for sale sign up, my wife and I said they are going to have problems. They are going to have problems because

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they have that dam fence in the backyard. Delmar should not and Town of Bethlehem should not have that as one of the aspects of the Town that people comment about. This was a hostile act. You had this big chain link fence, now you have barbed wire on top of it. Is this what Bethlehem is standing for? It is ridiculous. It needs to come down. Thanks.

SUPERVISOR FULLER: Thank you.

MRS. PATRY: Hi, I am Doreen Patry, I live at 55 Dover Drive. I live across the street so, I have similar experiences on this. I just wanted to let you know though that the Town is... has set kind of conditions for fences and that and I know several years ago we had planned because we have the Klersy lumber yard in our backyard on putting up a stockade... a very nice stockade fence and we went for a variance for that at that time and our neighbors agreed with us in back and we were not able to do that and it would have been a very lovely nice landscaped fence that really nobody minded. Now, this I wish we could get something and it would take this town because the barbed wire is a bit worse than that and my kids go across the street and play there too. And, they climb our fence all the time. We don't mind fences but no matter how many times you tell them go around or ask the neighbor to throw the ball over, they are right over the fence and I remember being a child also and sneaking into places that had barbed wire and ripping cloths and that flesh but we were only lucky. So, we support this measure. Thank you.

SUPERVISOR FULLER: Thank you. Anyone else wishing to speak in favor?

MR. MARINO: I am going to take a quick stab at it. My name is Rocco Marino. I am a Dover Drive resident also. I want to preface my remarks by saying that safety by far is the key issue here. But, I am not a native Capitol District person. I moved here about 4 years ago with my family and we had a large radius of area to choose from and we picked Bethlehem and now we have this fence in our backyard. We picked Bethlehem because of a sense of community and neighborhood and this is just so contrary to all of that. And, speaking of this fence, I know this 1 year thing could become an issue but this fence went up real fast, believe me, it wasn't... I mean if he took it down in... if it went down in twice the time it took to get up... be erected, it would not be a burden to the owner. Maybe I am a little .... here, I certainly hope the Board approves the removal of the fence of the barbed wire and the brackets but I would like to appeal to the owner if he is here and I would like to see the fence go down all together. You know, again, I might be in a different zone but... And, I know that the neighborhood would support the cost of that. I know I would certainly. That's what I have to say about it. Thank you.

SUPERVISOR FULLER: Anyone else wishing to speak in favor? There were none. Is there anyone wishing to speak in opposition? Is the owner of the fence present this evening? Would you like to have the opportunity to speak or not? (The owner indicated he did not wish to speak by a shake of his head.) Okay.

ATTORNEY KAPLOWITZ: Before we close the hearing, just for the sake of edification so some of you know where we are coming from. When this first became a problem, it was brought to the Board's attention by some of the residents of the Dover Drive area. I went down with the Building Inspector, others did, we walked and took a look and what have you. I think... I won't say what I thought... Part of the fence was up and I am trying to make a distinction here. It is easy for us to say there will be no additional fences put up. We did that in a hurry because we felt comfortable doing that and we thought it would serve a purpose. It is much different to say your fence that is up has to come down because now you are taking somebody's property and you are getting into all kinds of constitutional issues about paying for the property and all of that. I have not been able to find any similar case or statute in New York anywhere but I am familiar with and most attorneys are the cases that apply to fences. I spent 5 years with the Zoning Board years ago and that was... they live with that kind of thing all the time. I have never found any that said you could amortize a fence out of existence in less than 5,

maybe 3, maybe even 2 years. The theory in all those decisions that were written was you have to give the person the opportunity to recoup his investment. Granted that the investment in a barbed wire is very small, I think, the fence is one thing but we are talking just about the barbed wire. I personally felt and suggested and prepared this along with John because I thought a year was about the limit we could go and be safe if we end up in a court room. And, we don't like to loose if we end up in a court room. You can disagree with me but that was my opinion that we couldn't really cut it much more than a year. Now, a suggestion tonight that he could take part of each month or something is novel and may have some merit. If we are going to do something like that we would have to start all over again because the public hearing we advertised for tonight is for a different subject and if you make a material change like that, you would have to re-advertise and start over. I am not saying no or yes, that is up to the Board, not me but I wanted you to understand just where we are coming from. I talked to Members of the Board and what do you think about barbed wire fences and you can imagine what the responses were because that is why we are here. It has never been a big problem in Town until all of a sudden it happened. And, it is up to them to vote their conscience but I just wanted you to understand why we are at where we are at. I had told Chris and somebody else we would be able to do this, we are probably 3 or 4 months late for which we apologize but we are here and at least, you know, you have all had an opportunity to speak and we will go from there. Anybody have any questions about the legal aspects?

MR. LEWIS: Allen Lewis again. My question is and this will be hypothetical. But, I own a farm in town and there are some farms in town with barbed wire there.

ATTORNEY KAPLOWITZ: This exempts them.

MR. LEWIS: They are exempt but what happens if some of that property or adjacent property is developed in the future, how does this ordinance affect that? Would they then be given a year to do this?

ATTORNEY KAPLOWITZ: This Ordinance prohibits the barbed wire in any residential zone.

MR. LEWIS: So, if it becomes residential then...

ATTORNEY KAPLOWITZ: It automatically be... would have to go.

MR. LEWIS: Within a year.

ATTORNEY KAPLOWITZ: I would think.

MR. LEWIS: Within a year after it is sold.

ATTORNEY KAPLOWITZ: I would think we would give them the year.

COUNCILWOMAN DAVIS: The barbed wire would have to go, not the fence.

ATTORNEY KAPLOWITZ: Yes, not the fence, just the barbed wire. We did know we were going to have to exempt farmers. There are a couple of other exemptions.

MR. FLANIGAN: There are quite a few farms in town.

ATTORNEY KAPLOWITZ: To make it work, you have to try and consider those. Yes?

MR. MOONEY: Mr. Kaplowitz, what is your view of the win ability if it is pursued or sued per se?

ATTORNEY KAPLOWITZ: Well, I think we are on solid ground. Police powers the town has under the constitution provide for the welfare, safety and benefit of its citizens and I personally think barbed wire doesn't belong there. And, I think that's important. I think anybody else would think the same thing.

MR. MOONEY: I would presume by the fact that...

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ATTORNEY KAPLOWITZ: To keep livestock in on a farm is one thing but in a residential neighborhood, it doesn't make a lot of sense. I think so but I was perhaps being cautious when I said a year, less than, rather than a month or six months or something because I think a year is reasonable. And, I haven't seen any of the other cases though they had to do with fences that were less than several years. So, you know, I can't tell you or predict what will happen but I felt comfortable with that.

SUPERVISOR FULLER: May I have a motion to close the public hearing.

The motion was made by Mr. Lenhardt and seconded by Mr. Putney to close the public hearing at 9:15 p.m. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.

Noes: None.

*Kathleen A. Newkirk*  
Town Clerk

Supervisor Fuller convened the regular meeting following the close of the public hearing. She said as Mr. Kaplowitz explained, and she also was going to, to change tonight due to what has been presented from the Bonvilles and gradually taking the fencing down, this would have to start all over again. She said she thinks the issue is what was advertised and this has been waited for.

Councilman Davis said she knows that there are members of the agricultural community, the farming community, people who own large parcels of land who had fences for years and years and this does not threaten them. This is not threatening them and this is not the intention of this proposal. She said hopefully that is not something that people will feel concerned about.

The Supervisor asked if the Board wished to take action. The motion was made by Mr. Lenhardt and seconded by Mr. Johnson to approve the adoption of Local Law No. 14 of 1996 amending the Code of the Town of Bethlehem with regard to non-conforming fences. The motion was passed by the following vote:

Adopt Local  
law no. 14  
non-conformin  
fences

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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Councilman Putney said in light of what Mr. Dempf has presented, he would urge the Board and the Town Attorney that if there is any way that the process could be speeded up, he would urge the Board to do so. He said it has been nearly 2 years since this problem was first brought to the Board's attention by Messrs. Richard and Carl Schrade. He said he is delighted it is finally moved on and apologized for it being so long.

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Supervisor Fuller asked for a motion to adjourn the regular Town Board meeting. The motion was made by Mr. Lenhardt and seconded by Mr. Putney to adjourn the regular Town Board meeting at 9:17 p.m. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

*Kathleen A. Newkirk*  
Town Clerk