

TOWN BOARD
SEPTEMBER 12, 2001

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, NY. The meeting was called to order by the Supervisor at 7:30 p.m.

PRESENT: Sheila Fuller, Supervisor
George Lenhardt, Councilman
Doris M. Davis, Councilman
Daniel G. Plummer, Councilman
Susan Burns, Councilman
Kathleen A. Newkirk, Town Clerk
Robert J. Alessi, Esq., Town Attorney

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Supervisor Fuller welcomed everyone to a regular meeting of the Bethlehem Town Board and invited them to join in the pledge of allegiance.

The Supervisor said before the meeting commenced, she would ask for a moment of silence and prayer for all those people who have lost their lives, prayer for their families and prayer for all the volunteers – fire department, police department, emergency services – that are all in New York City and Washington.

The first item on the agenda was a request from Highway Superintendent, Gregg Sagendorph, for consideration of a proposed local law repealing 35 mile per hour Speed Limit on Cherry Avenue and Elm Avenue and set speed limit at 30 miles per hour. The Supervisor said this came about at a meeting and the public hearing could be scheduled for October 10 at 7:30 p.m. She said this is due in part to a lot of the truck traffic that has developed on these roads and the 35 miles per hour seems high and the residents requested it be reduced to 30.

The motion was made by Mr. Lenhardt and seconded by Ms. Burns to approve setting a public hearing for October 10, 2001 at 7:30 p.m. to consider a proposed local law repealing 35 mile per hour Speed Limit on Cherry Avenue and Elm Avenue and set speed limit at 30 miles per hour. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

The next item was a request from Gregg Sagendorph, Highway Superintendent, for consideration of a proposed local law repealing 45 mile per hour Speed Limit on Delmar By-pass Extension and set speed limit at 35 miles per hour.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve setting a public hearing for October 10, 2001 at 7:45 p.m. to consider a proposed local law repealing 45 mile per hour Speed Limit on Delmar By-pass Extension and set speed limit at 35 miles per hour. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

The next item was a request from Highway Superintendent, Gregg Sagendorph, for consideration of a proposed local law regarding No Left Turn on Van Dyke Road at intersection driveway to front parking lot of Bethlehem Central

High School. Supervisor Fuller noted the high school recently installed a new driveway on VanDyke Road. She said the driveway is for the northbound traffic on VanDyke Road wishing to enter the front school parking lots. It was designed and installed to accept northbound traffic only in an effort to prevent southbound VanDyke Road traffic from stacking back into the intersection on Delaware Avenue.

The motion was made by Ms. Burns and seconded by Mrs. Davis to approve setting a public hearing for October 10, 2001 at 8:00 p.m. to consider a proposed local law regarding No Left Turn on Van Dyke Road at intersection driveway to front parking lot of Bethlehem Central High School. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The following item was a request from Highway Superintendent, Gregg Sagendorph, for consideration of a proposed local law regarding Stop Intersections at Capital Avenue at Salisbury Road; Capital Avenue at Burhans Place and Capital Avenue at Euclid Avenue.

The motion was made by Mr. Plummer and seconded by Ms. Burns to approve setting a public hearing for October 10, 2001 at 8:10 p.m. to consider a proposed local law regarding Stop Intersections at Capital Avenue at Salisbury Road; Capital Avenue at Burhans Place and Capital Avenue at Euclid Avenue. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The next item was a request from Gregg Sagendorph, Highway Superintendent, for consideration of a proposed local law regarding Stop Intersections at Elwood Road at Frederick Place; Charles Boulevard at Frederick Place; Wallace Drive at Frederick Place; Wallace Drive at Crimson Leaf Drive; and Crimson Leaf Drive at Brockley Drive.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve setting a public hearing for October 10, 2001 at 8:20 p.m. to consider a proposed local law regarding Stop Intersections at Elwood Road at Frederick Place; Charles Boulevard at Frederick Place; Wallace Drive at Frederick Place; Wallace Drive at Crimson Leaf Drive; and Crimson Leaf Drive at Brockley Drive. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The next item was a request from Chief of Police, Richard LaChappelle, for approval of transfer of funds for repair of police vehicles.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the transfer of \$1,424.77 from the Insurance Recovery account to the Police Collision Repair account for damages to police vehicle 725 and approve the transfer of \$3,071.31 from the Insurance Recovery account to Police Collision Repair account for damages to police vehicle 714. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The following item was a request from Richard LaChappelle, Chief of Police, for approval of appointment of police officer effective September 15, 2001 at an annual salary of \$34,263. Supervisor Fuller noted the officer is Chad A. Rice of East Greenbush, NY. Mr. Rice is currently a Deputy Sheriff with the Albany County Sheriff's Department and this would be a lateral transfer to the Bethlehem Police Department with approval of the Albany County Civil Service Commission.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the appointment of Chad A. Rice, East Greenbush, NY as Police Officer for the Bethlehem Police Department at an annual salary of \$34,263, effective September 15, 2001. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The next item was a request from Administrator, Nan Lanahan, Parks and Recreation Department, for approval of appointment of seasonal personnel.

The motion was made by Ms. Burns and seconded by Mr. Lenhardt to approve the appointment of seasonal personnel as requested by Nan Lanahan, Administrator, Parks and Recreation Department, as listed in her Memorandum dated September 12, 2001 at the titles and salaries listed. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The next item was to approve the appointment of Democratic Voting Machine Custodian and his attendance at training with expenses paid. Supervisor Fuller said notification has been received from the Democratic Chairman, Matthew Clyne, appointing William Burkhard, 65 Brookview Avenue, Delmar, New York as Voting Machine Custodian. Training must be provided by the Town, therefore, the Supervisor explained Mr. Burkhard needs approval to attend the training session on September 17 and 18, 2001 from 8 a.m. to 3:30 p.m. at Voting Machine Services, Inc., Gerry, New York. The Supervisor noted the expense amount of \$160 will be covered by the Town of Bethlehem with remaining expenses paid by the Town of Bethlehem Democratic Committee.

The motion was made by Mr. Plummer and seconded by Ms. Burns to approve the appointment of Mr. William Burkhard, 65 Brookview Avenue, Delmar, New York as Voting Machine Custodian and approval of payment of training expenses of \$160 being borne by the Town of Bethlehem and remaining expenses being covered by the Town of Bethlehem Democratic Committee. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The following item was to approve payment of Voting Machine Custodian for preparation of voting machines for Primary Day, Tuesday, September 11, 2001.

The Supervisor said this custodian was hired from the Board of Elections list of certified Democratic voting machine custodians. She noted he is Mr. Arcolano who works for the Town of Guilderland.

The motion was made by Ms. Burns and seconded by Mr. Plummer to approve the payment of Mr. Charles Arcolano, Altamont, New York, certified Democratic Voting Machine Custodian, for set up of voting machines for the Primary Election held September 11, 2001 at a payment of \$130 total. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

The following item was a request from Engineering Services Administrator, Michael Cirillo, for acceptance of deeds for Fisher Boulevard, Slingerlands reconstruction project. Supervisor Fuller explained this is Fisher Boulevard near New Scotland Road. She said the agreed upon offer is \$9,475.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the acceptance of deeds for Fisher Boulevard, Slingerlands from Bethlehem Children's School located at 12 Fisher Boulevard, Slingerlands, New York at the offer of \$9,475. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

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Councilman Davis inquired about the date for completion of this work. Mr. Sagendorph said the storm drainage is all installed and they started digging the roadway troth this date. He said it is dependent on weather conditions but perhaps by the 1st of October it may have new pavement in place. Councilman Davis thanked Mr. Sagendorph and noted the Highway Department has been working hard there.

The next item was a request from Bruce Secor, Commissioner of Public Works, for approval of award of bid for Rehabilitation of Clarifier No. 5, New Salem Water Purification Plant. Supervisor Fuller noted on August 30, 2001 one (1) bid was received and it was recommended that the award be made to the bidder which met the specifications and is within the budgeted amount for the project.

Councilman Plummer asked Mr. Secor why there was only one bid received. Mr. Secor said the normal advertising and mailings were done. He said it may be their work load or whatever is going on. He said the price received, noting preliminary estimates were requested almost 12 months ago, was close to what they indicated as between \$230,000 to \$250,000.

Councilman Burns asked what the budgeted amount was for this work. Mr. Secor said they have \$305,000 in the total budget but there is some mechanical work and some other work that has to go on with this. He said the whole thing appears to be coming in within the budget.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for the Rehabilitation of Clarifier No. 5 at the New Salem Water Purification Plant to A & W Maintenance, Inc., at a price of \$231,520. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

The following item was a recommendation from Town Attorney, Robert Alessi, for consideration of proposed local law regarding a temporary moratorium for Adult Uses. Supervisor Fuller said basically this item was to set a public hearing and asked Mr. Alessi to give a brief overview for the audience.

Mr. Alessi said the proposed Local Law that is presented temporarily stops any approvals, consideration of, or applications for adult uses anywhere in the Town of Bethlehem. He said the current status of regulation is that pursuant to the existing master plans of the Town, as well as, the zoning code, adult uses as defined in this proposed Local Law are unregulated. He said this means that as it stands, adult uses could virtually occur anywhere within the Town. He said the courts and studies have confirmed that these uses unregulated -- meaning in regard to time, place or manner -- have serious deleterious secondary affects. He said that means they cause problems.

Mr. Alessi said the purpose is to say essentially we, like many other communities, need time to be able to study the most appropriate ways to regulate uses. He said since adult uses implicate the first amendment to the U.S. Constitution and to the New York State Constitution, they cannot be banned wholesale in any community. He said any locality trying to do this have had the laws struck down and have actually ended up in a worse situation than had they appropriately regulated them.

Mr. Alessi wanted to make clear this law in no way is supporting nor trying to engender adult uses. He said it is trying to put a stop-gap on their ability to be used until appropriate regulations are put into effect. He said the most operative section of the proposed local law was Section 4 which states for a period of 9 months after the effectiveness of the local law, there will be a moratorium. He said that means no applications accepted by anybody or any official or any board in the Town for an adult use until an ordinance and regulations are put in place.

Mr. Alessi said there is a provision in the local law for a variance should someone be able to demonstrate under a very, very substantial burden that they have some hardship and that they would not adversely affect the job of trying to create a law or the public health and the environment. He said they can come before the Board and try to make that case. He said in his experience, that case has almost never been made but there is the possibility it could be made and to have this law be constitutional and otherwise lawful, there must be a provision for that procedural mechanism.

Mr. Alessi explained the procedure to be followed and the fact that this must be referred to Albany County Planning because under recent court decisions, moratoria have been deemed to be the effect of zoning and any zoning that extends within 500 feet of a County area -- which this would because it covers the entirety of the Town of Bethlehem -- has to be submitted to Albany County before it can be voted on. This does not restrict holding the public hearing and going forward with the procedures needed up to the point of voting but there is a need to have an Albany County decision or have 30 days from the referral to Albany County and this becomes a default approval from the County.

Mr. Alessi said finally and due to the Planning Department and Mr. Lipnicky's quick action, this was coordinated such that the Albany County Planning only meets once a month and that would be the 13th of September. He said hopefully this will be placed on their agenda to coincide with the time line set out on this item.

Councilman Lenhardt commented that he would like to see this law be as tight as possible to avoid any secondary effects from these uses. Attorney Alessi said that is the core of what is being proposed.

Councilman Davis thanked Mr. Alessi for expediting this as quick as he has.

The motion was made by Mrs. Davis and seconded by Ms. Burns to approve forwarding of this proposal to the Albany County Planning Board and setting a public hearing for October 10, 2001 at 8:30 p.m. to consider a proposed local law regarding a temporary moratorium for Adult Uses. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

Supervisor Fuller asked if anyone wished to address the Board. There were none.

The Supervisor welcomed the students and noted they picked a good night to come to the Board meeting.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to adjourn the regular Town Board meeting at 7:47 p.m. The motion was carried by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

Town Clerk