

TOWN BOARD
SEPTEMBER 25, 2002

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
Thomas Marcelle, 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. She invited everyone to join in the pledge of allegiance.

The first item was the presentation of the 2003 Tentative Budget to the Town Clerk. Supervisor Fuller said the Town wants to continue to provide the highest quality service to the residents. She said they are continuously seeking new ways to serve the public better, via web based services like putting the Town Code on our Town site or expanding recreational programs or fostering sensible economic growth. She said they have attempted to be progressive in their use of technology to help the employees work as efficiently as possible. She said they want to be good stewards of today's resources so that they are better able to serve the community and the needs of the community in the future.

Supervisor Fuller said they will continue to maintain stable tax rates, will hold the line on expenditures to preserve the strength of the Town's financial position. None of these goals, she said, however, can be achieved without the efforts of the Town employees. She said it is our work force, as in the private sector, the best employees embrace the ideals of professionalism and a positive attitude. She said they are receptive to the use of new technology knowing that it will lead to higher productivity and better service.

Over the last year, the Supervisor noted, the various offices have hired about 6 new employees. Each office went through a formal recruitment process which included placement of ads, resume screening, interviewing and recruiting. The results, however, of these broad base recruitment efforts produced some unexpected findings, the Supervisor said. She said the Town's pay scales seem to be lagging and even though benefits package was good, it was more of a challenge to attract the very best candidates. In order to attract and keep high caliber staff, the Supervisor said it is necessary to have competitive human resource policies. This year's budget, according to the Supervisor, includes several proposals to further enhance the Town's overall compensation structure including a 4 percent increase in the basic salary schedule. She said another proposal is to provide supplemental payment for employees with Associates and Bachelors Degrees. There has been a corresponding relationship between the employee's level of education and level of service efforts and accomplishments, the Supervisor said. She said the Town's current job classification system does not differentiate between high performers and average performers. She said the education allowance is a means of achieving this. She said they are proposing \$500 a year for employees with an Associate's degree and \$1,000 a year for a Bachelor's or higher. She said the Town currently offers a 50 percent tuition reimbursement to employees up to an annual maximum of \$1,000. They are proposing the maximum be increased to \$2,000.

Supervisor Fuller said tonight's Board agenda also includes a proposal to expand the cafeteria plan for all eligible employees. She said each of these items is designed to help attract and keep the best employment talent.

Supervisor Fuller said the use of new technology helps enhance the services the Town delivers. She said almost all computer applications are interfaced between multiple departments. She said the sharing of data enhances accountability, as well as, streamlines the operations. She said the work orders, facility management program will help departments track both preventive maintenance and emergency repairs. It will also track the cost associated with these tasks in addition to creating the actual service request for the work crews to perform the necessary task, according to the Supervisor.

Supervisor Fuller said building inspections and code enforcement program has automated the functions of Building Department and has simplified the tracking of inspections. She said the fleet management application is being installed in the year 2003 and should facilitate the tracking of maintenance and repair work on the Town's fleet of over 250 vehicles.

Supervisor Fuller said the MIS Department is also working to enhance the functionality of the Town's website and will continue to add new services and information to our site. She said for all the software applications, the Management Information Service Department is the key to integrating vast amounts of information. She said all the Town's offices are heavily dependent on the network in performing their duties. She said the Assessor, the Receiver of Taxes, Comptroller, Public Safety, Town Court, Senior Services, Public Works, Parks and Rec., Highway Department, Town Clerk and Building Department. She said the addition of a third MIS professional in the year 2002 did help to meet the ever growing demand for technology applications.

Supervisor Fuller said they could not do half of what they accomplish without the tremendous support from our MIS Department under the leadership of Jeff Dammeyer. She asked Mr. Dammeyer to stand so everyone had a face with the name. She said they have provided training and project management to enable users with varying degrees of technological sophistication to achieve the benefits of automation. She said they are responsive to service requests, are proactive in their recommendations on how to fully use the available features of the software. She noted they provide continuity across multiple departments in situations where data is interfaced from one to another. In short, she said, they allow all users to take for granted the functionality, reliability and integrity of the network.

Supervisor Fuller turned over the rest of the budget message to Comptroller, Judith Kehoe. Mrs. Kehoe said a year ago just after September 11, there were many fears about the extent of the looming recession. She said the economy seemed to rebound in the spring only to falter again when corporate scandals shook the markets. She said the State is facing severe budget shortfalls due to a significant drop in their revenues and large expenditure increases stemming from a sluggish economy and then the lingering effects of September 11.

Mrs. Kehoe said the county is predicting steady revenues but they also are facing huge increases in Medicaid costs and in their PINS program – Persons In Need of Supervision. She said the economic picture is really not overly optimistic.

Mrs. Kehoe said Bethlehem is a little bit different and is not subject to the same types of financial pressures that are rocking the larger governmental entities. She said with Albany County as a shopping hub, the sales tax receipts are expected to be stable. She said even the County when she spoke with them are expecting stable revenues in that area. With continued low interest rates, the mortgage refinancing and the financing of new home construction are still strong, according to Mrs. Kehoe. She said the community shows continued strength in both private home construction and in commercial activity.

Mrs. Kehoe said property values are increasing as the demand for homes in Town struggles to keep up with the supply. She said these increased values are reflected in changes in the Town's equalization rate for 2003 and be reflected in

property values as the Assessor's office works on the scheduled 5 year review of town-wide assessments.

Mrs. Kehoe noted PSEG is revitalizing the former Niagara Mohawk steam plant bringing a short time drop in assessed values for the long term stability to the valuation of the Town's largest property owner.

Mrs. Kehoe said the new Price Chopper is open in Glenmont breathing new life into the Town Squire shopping plaza and the Daisy Tech warehousing renovations are in progress in Selkirk. She said this IDA project has taken a property that was deteriorating and losing assessed value and providing a long term community benefit. She said it will, hopefully, also spur additional growth in the neighboring warehousing parcels in that area adding to the assessment base for the RCS School District.

Mrs. Kehoe noted rising fringe benefit costs seem to be a recurring theme as part of the budget preparation. The health insurance rates increased significantly this year, according to Mrs. Kehoe, doubling the rate of increase over the prior year. She said the rates are up about 14 percent for 2003. She said the workers compensation costs are up over 20 percent and the New York State Retirement System is requiring a huge increase in their employer contributions, up about 38 percent from this year's level.

Mrs. Kehoe said of the total budgeted fringe benefit costs of \$2,665,000, health and dental insurance by far comprise the largest portion equal to 1.2 million dollars. She said this is followed by workers compensation at about \$386,000 and the retirement system at \$132,000. She said everyone can see why they have that sensitivity to those large increases because it does effect a significant portion of the Town's budget.

Mrs. Kehoe said the town-wide funds represent the funds where the majority of Town services are provided. The General Fund's budget is balanced with total expenses of \$12,640,000 and the Highway Fund proposes total expenses of \$5,055,000 with a planned deficit of \$160,000, according to Mrs. Kehoe. She said as stated last year, the phased in reduction on the PSEG assessment represents a sizeable revenue loss to the town-wide funds. In order to weather the overall decline, Mrs. Kehoe said, the fund balance as been deliberately allowed to grow to provide a funding source to offset anticipated future declines in those town-wide revenues. She said this has enabled the tax increases to remain at modest levels despite those fiscal pressures. She said the proposed 2003 increase to the General Fund and the Highway Fund is only 4 percent.

Mrs. Kehoe said as outlined at recent Board meetings, while the water fund has been experiencing significant financial difficulties, a plan is in place to remedy the situation. She said the proposed budget reflects the long term financial plan previously presented by Commissioner Secor. She said with the increase in the tax rate from \$.735 per thousand to \$.84 per thousand, as per the plan, district customers will see an increase of about \$11.50 per 100,000 of assessed value. She said if your house is assessed at \$150,000, the water fund tax increase for 2003 would be about \$17.25.

Mrs. Kehoe showed a pie diagram showing the effect of the proposed tax changes on the property. She said in prior years they had presented this as a sample tax bill for a property assessed at the approximately town-wide average of \$130,000, given the potential swings in that value we changed the presentation to show the impact per \$100,000 assessed value. She said now you can easily calculate what the impact would be for your property in multiples of \$100,000. She said if the house was assessed at \$150,000, your tax impact will be 1.5 times the 1998 listed in the bottom right of the spreadsheet or \$29.97. She noted the chart did exclude Albany County and Special District taxes. She said the Special District taxes are fire and ambulance and for certain water and sewer district

extensions. She said these taxes generally are not set by the Town but they do appear on the January tax bills.

Mrs. Kehoe said the budget had just been presented to the Town Board at this meeting. She said they will have a few weeks to look over the information in the binder and a copy is on file in the Town Clerk's office and a copy in the Bethlehem Public Library. She noted there is a workshop scheduled for the 16th of October at 7 p.m. at Town Hall and said if a second night is needed the workshop would be held the following night on the 17th at 7 o'clock. She said the public hearing will be October 23rd at 7:30 and the adoption of the budget is slated for November 13, 2002. She said if there are any questions or interests in the budget for 2003, she encouraged attendance at the workshops.

Supervisor Fuller thanked Comptroller Kehoe and said as was mentioned, this was presented for the first time so there is, obviously, some need for discussion and that is what the workshops are scheduled for.

The next item was a request from Jeff Dammeyer, Director of MIS, for approval of authorization of use of Capital Reserve Funds – Computer Systems Upgrade. Mr. Dammeyer said from the slide a lot has happened in the last 4 or 5 years since the last upgrade. He said there are over 90 users to the systems and updated the functions of 4 departments in Town. He said the system has reached its capacity and it is necessary to upgrade the system. He said in addition, there is a need to provide the Police Department with a backup computer for when it is necessary to take down the main system to do backups or system maintenance or upgrades to the system. He said the Police Department need to have continual police CAD capabilities. He said the money has been accumulated over the years fore this anticipated upgrade. He said it was planned for next year but there was new models coming out and it made sense to wait until this year.

The following resolution was presented for adoption:

RESOLUTION AND PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem in the County of Albany, State of New York has on the 25th day of September 2002, duly adopted, subject to a permissive referendum, a resolution as follows:

WHEREAS, the Town Board of the Town of Bethlehem has determined that it is necessary to fund the computer systems upgrade, and

WHEREAS, it is estimated that the costs of said work will not exceed \$265,000; and

WHEREAS, in recognition of these needs, funds for such purpose are in the General Fund Capital Reserve; and,

NOW, THEREFORE, BE IT RESOLVED that it is in the public interest to complete these hardware and software installations; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the expenditure of the reserve moneys to fund this project up to a maximum amount of \$265,000 and,

BE IT FURTHER RESOLVED, that the Town Comptroller is authorized to expend from the General Fund Capital Reserve the funds necessary up to \$265,000 in said reserve fund; and

This resolution shall be subject to a permissive referendum, as permitted by law.

The motion to adopt the resolution was made by Mr. Lenhardt, seconded by Mrs. Davis and duly adopted by the following vote:

AYES: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer,
Mr. Marcelle.

NOES: None.

ABSENT: None.

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Supervisor Fuller mentioned that this was a total amount of money not to exceed \$265,000 and this is money that has been set aside in a Capital Reserve account for updating this computer program.

The next item was a request from Comptroller, Judith Kehoe, for authorization of expanded employee benefit program. The Supervisor said this is a simple, quick, okay for the benefit plan administration, noting it is of no additional cost to the taxpayers. She said this is paid for by the employees themselves.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to authorize the Supervisor to sign a contract with Benefit Resources, Inc. to administer the employee benefit program. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

The following item was to consider proposed local laws regarding truck regulations. Supervisor Fuller noted at the last meeting, the Town Attorney was requested to draft some resolutions to bring back to the Town Board to consider what they were going to regulate, how we were going to regulate it, what we were setting a public hearing for. She asked that the Town Board be given the opportunity to discuss this, after the Town Attorney who has drafted the proposals goes through them with the Board. She said once the Board has discussed it, she would allow questions and comments from the audience. She thanked everyone.

Town Attorney Alessi thanked Supervisor Fuller. He began by making some preparatory remarks. He said the fact that the Board is going through a couple draft options in no way is an indication whether these laws ultimately come to fruition or not. He said that will be a judgment by the Town Board. He said this is viewed as a discussion purpose draft of 2 documents. He said what he is going to do is first go through the process so everyone is aware if this is to proceed what the process would be. Secondly, he said he would go through the substance of the law, walk through certain provisions noting it can be done fairly quickly and highlight some of the issues that arise through each section. He said thirdly, once he goes through the substance, he will discuss some of the prerequisites for a law of this nature to ultimately become enacted. As Supervisor Fuller noted, Mr. Alessi said, this is essentially a working session for the Town Board with regard to this topic.

Mr. Alessi said there are 2 options before the Board and he said in order to pass a local law, particularly one regards truck traffic, there first has to be a proposed law. He said there are 2 tonight and it is his understanding that the Board may choose to get to the point of proposing 1 law or they may choose to do any of another alternative with regard to that. He said the procedure once there is a law proposed is to be able to hold a public hearing. He said the public hearing will be noticed, people will have the opportunity to come in and speak in favor or against and otherwise comment and ask questions. Following the public hearing, Mr. Alessi said the next step is to have the proposed law to be sent to Albany County. He said under General Municipal Law, Section 239M, a law such as this must be sent to Albany County Planning Board. He said Albany County Planning Board has the ability to approve, deny or approve with modifications any local law that the Town Board chooses to pass. Mr. Alessi said that procedure does not have to await nor should it await if the Board chooses to move forward that this local law be voted upon. He said as a matter of act, the General Municipal Law requires that this law – should it again progress – has to be sent over before final action by the Town Board. He said, therefore, the Town Board is without jurisdiction, is without

power to take final action on any local law until it has been sent to Albany County. He said Albany County is given 30 days to act on the law. He said if they choose to approve, modify or deny the Town Board has options. He said if they choose to deny or approve with modifications, the Town Board can override what Albany County Planning Board says with a majority plus 1 vote. He said that means there would have to be a vote of 4 Town Board Members should that occur.

Mr. Alessi said there is another part of the process and that is the State Environmental Quality Review Act. He said this is clearly an action under SEQR ECL Article 8 and therefore, whatever the Board does, they have to identify the relevant areas of environmental impact, take a hard look at them and make a written reasoned elaboration. He said among the things the Town Board must do is document in writing the effects of whatever it proposes and prominently as most people will understand, traffic is the issue and it could very well be one of the impacts. He said lastly, consonant with SEQR is the Town Board has to show a rational basis for what it does. He said while there is a presumption that a local law of the Town is valid, the presumption can be overcome by someone showing that there is not a rational basis.

Mr. Alessi said that is the process. He said what he will do next is go to the substance. He said what he has done is ask several people in Town to go through some of these issues. He said while, again, these people are not taking a position one way or another, but it was in furtherance of the goal of crafting a resolution for the Town Board to talk about.

Mr. Alessi said option 1 and 2 differ in only one small respect and in furtherance of the resolution, it was to come up with different ways to write the local law. He said as you go through, the options are essentially identical. The first provision, Section 1, just states the basis of authority for the Town Board to act. He said he has concluded and he thinks it is rather clear that the Town Board certainly does have authority to act in this area. Section 2, he said, describes in a more conclusory way the basis for the law. He said it talks about minimizing impact, effect on the community but it is at this stage that it is a fairly perfunctory statement about the police powers of the Town.

Mr. Alessi said Section 3 becomes the functional or pivotal aspect of the law. He said this is the difference between the 2 options. In option number 1, he said it goes through and establishes a prohibition. He stated what the proposed law said. He noted the restricted vehicles are: 1. tractor trailer combinations, 2. tractor semi-trailer combinations, 3. tractor trailer semi-trailer combinations. He said there has been no judgment made as to what types of truck are going to be subject to the ban. He said the reason for putting these 3 categories down are merely for discussion purposes and it may be the Board's desire to pick and choose from these, to define the prohibition differently and he suspected there would be robust discussion. He said they are down there for a basis for discussion. He said in Section 2 there is the addition of another class in bold. He said they had 3 classes on option 1, and on Section 2 there is the addition of another class which adds or other commercial vehicles having a gross weight in excess of 5 tons. He said it is not a conclusion or judgment again but another mechanism by which this can be regulated. He said the number can go up or down or the weight limit eliminated.

Mr. Alessi said Section 4 is the exceptions. He said it says even though we are going to prohibit this, this is accepted. He said this basically is local deliveries but importantly, it is local deliveries within the Town of Bethlehem. He said it means essentially that if any of the prohibited vehicles are going to pick up or deliver to a location within the Town of Bethlehem, they are not prohibited from using the otherwise prohibited streets. Mr. Alessi said in other words, if Elm and Cherry were to be streets upon which a tractor trailer combination was prohibited, if that tractor trailer combination was going to go deliver to a place in Bethlehem or pick-up in a place in Bethlehem, that otherwise prohibited truck could traverse Elm and Cherry Avenue. He said that was the exception there and again for discussion purposes, it can be enlarged or shrunk down.

Mr. Alessi said Section 5 is the violation section. He said there are graduated fines upward for the number of violations starting with \$100 and ending up with \$250 or imprisonment of 15 days. He said this is standard local law violation provisions. He said this is not something the Town created, it is the standard violation for these types of matters.

Mr. Alessi said Section 6 is simply when the local law is effective. He said to make the law work, there have to be signs posted, the signs have to meet certain requirements and depending upon the law, the signs can be rather simplistic and formulaic or they can be a great big sign that has a lot on it. He said that is another topic for discussion.

Mr. Alessi said he wanted to speak a little bit about the rational basis for a local law. He said the local law has to have a reason that makes sense. He said it also has to be principled. He said if you are going to ban certain trucks and allow other trucks, you have to have a basis for distinguishing between those you want to allow and those you want to ban. He said courts give deference to the local municipality on what rational is acceptable but the courts will look for the rational basis. Finally, Mr. Alessi said the roads that are at issue are county roads. He said back to Section 1, the Town clearly has authority to regulate provided they do so in a lawful way and impose restrictions. He said State roads, despite the desires of some – not only in this Town but in other municipalities – cannot be regulated or limited by a municipality. He said we deal with, as any municipality, the powers that are given to us by State Law and for better, for worse, county roads and town roads can be so restricted by a municipality – State roads cannot.

Mr. Alessi said there is a lot more to this, rather than go into more detail is to stop there and see if there are any questions or comments from the Board.

Concerns were raised with regard to the fact that there is nothing which indicates what alternative routes banned trucks will take. It was mentioned that that was essential to be discussed. Mr. Alessi noted an expert in traffic engineering may be required to discuss alternative routes.

Question was raised with the Highway Superintendent regarding the banning of trucks on Elm and Cherry Avenue. Mr. Sagendorph noted that his department would not be able to service the North Bethlehem or Slingerlands area of the Town of Bethlehem. He said there would be no way other than traversing some other local roads to get there.

Mention was made that when the residents came in, they were specifically targeting certain trucks, noting it was car carriers. Suggestion was made to clarify what this tractor trailer combination would capture, i.e. larger trucks/vehicles. It was suggested that not all trucks were the issue.

Suggestion was made to limit this by length, noting this hits most of the neighbors concerns. Question was raised with the Highway Superintendent as to what trucks would be restricted by this. Mr. Sagendorph, who has been with the highway Department for 30 years said most of his knowledge is with single axle dump trucks and tandem dump trucks. He said there are a lot of community residents and business members who have been truckers all their lives. He said there are company executives as well and he deferred the question to someone there who can give the correct answer to that. Mr. Sagendorph asked if anyone wanted to describe the length of the tractor trailers. Supervisor Fuller did not want to have anyone else give information.

Councilman Marcelle thanked Town Attorney Alessi and his working group for all their hard work on the proposed local laws, noting his motion at the last meeting was very broad and it was not an easy task.

Mention was made of a permitting process through the Highway Superintendent's office that had been discussed to permit tractor trailers that have to come out of the Port of Albany and have to travel beyond the Town of Bethlehem. The Supervisor said she was a part of the working group and when the permit system was discussed, she thought it was done away with because it became cumbersome for the Highway Superintendent to be handing out permits. She said it was resolved by the allowance of local delivery and if there was an exception, that would be identified.

Consideration to be given to banning tractor trailers, the length possibility, the car carriers, looking at the length over 57 or 58 feet. Mention was made that in the local law there was no severability or savings clause and if part of the law is found illegal or struck down by a court, the rest of the law would remain steady. Further comment was made that it was a good idea not to have this severability or a savings clause in the statute only because as it is looked at this is trying to deal with the problem of the exceptions and with the length or however it is looked at as a whole. If one part was struck down, it was felt that there should be an opportunity certainly to review the law in the entire context.

Question was raised regarding the State roads in the Town of Bethlehem and a ban on tractor trailers. Superintendent Sagendorph said there is no ban on any State roads in the Town of Bethlehem with the exception of no tractor trailers on Feura Bush Road which is State Route 910A and it runs from Elm Avenue to Elsmere Avenue. He did mention that there are height restrictions due to underpasses. Question was also raised as to the cut off of tractor trailers, whether by length or size or weight. Mr. Sagendorph said he did not know the cut off on these trucks. Mention was made that that information would be important for the Town Board to have. Comment was made that the State law is 65 feet without some extra dispensation that it is believed car carriers have.

Further discussion ensued regarding review by an engineer; truck traffic on Delaware at night; comments by a representative from Callanan Industries; and enforcement issues.

The Supervisor noted that she has been looking at this issue for a long time. She said she is looking to use a regional approach but she thought she can address this as a Town of Bethlehem approach this evening. She said she is not ready nor did she think the Board is prepared to begin to set a public hearing because they do not know the impacts of the local law. She said she knows it was mentioned that this issue was studied to death at the last Board meeting, however, she said this has not been studied as it impacts the Town of Bethlehem. She said what was looked at was a problem with traffic in the southern end of Town, traffic on Cherry and Elm and really when this is looked at, there is a look being taken at traffic in this entire Town. She said there is a major increase in traffic. She said there is also a major increase within the last month of car carriers, dump trucks, whatever truck they want to call it and she is not a truck expert by any means, but she has tried to keep a look at where these trucks are. She said she assures everyone that these trucks are all over the Town and this problem is only being moved around. She said she thinks there needs to be a good hard look and keep a good hard look and attention focused on commerce for the Town of Bethlehem.

The Supervisor said on one hand development is being encouraged, want industrial development and commercial tax base and need to help taxpayers and yet here is something that will ban something. She said it is not decided whether it is a car carrier, if it's construction vehicles. She said she knows she is not prepared to take a vote on this issue. She said the decision for the Board is to take a look at whether they are ready to set a public hearing and if so, what is the public hearing's topic. She said if they are ready to go ahead, that can be done. She said she felt the need to let everyone know upfront where she was coming from as a Board Member who does have a vote on this. She said she has real concerns and real reservations about business in the Town of Bethlehem and she said frankly this is business for the State of New York. She said quality of life is important to everyone but

everyone will suffer quality of life if the State does not begin to take a good, hard look at what is going on in this Town of Bethlehem. She said she, for one, does not want to look at neighbor pitted against neighbor, business pitted against business, car carriers that cannot go through the Town, to the construction companies to our own Highway Department – anyone who drives a truck. She said we need to keep the Town open and open for business. She said Cherry and Elm Avenue are bearing the brunt of the trucks that have gone through that road for many, many years and she believes it is back in the late 1960s, if not the early 70s, this is not new. She said it probably is more trucks being seen but the Town needs to move on and take a good, hard look and know what the impact of a decision this Board may make in going to the public hearing. She said if they are educated enough and know the impact to this Town, then that can be done at this meeting.

Councilman Plummer went back to his comment and noted his view is that he is in support of capturing the car carriers and banning them from that strip, from Elm Avenue and Cherry. He said it was never the intent, he believed, of the neighbors in that community and it certainly was not his, to ban all truck traffic, to capture the Callanan's of the world, to prohibit the construction vehicles to transport equipment. He said he never heard there was a problem with that. He said he heard right along that the real problem was the car carriers. He said there was an attempt to work out an arrangement with the car carriers that they would use the bypass. He said it makes sense and is practical. He said for whatever reason that does not appear to be working out. He said he would be supportive of limiting the restriction to the length that captures the car carriers and he thinks they can do that by looking at the statute and specifying or outlining what it says as it related to the car carriers.

Supervisor Fuller asked for clarification if Councilman Plummer was making a motion to ban car carriers. Councilman Plummer said he was not making a motion but wanted to hear from the remainder of the Board Members.

Councilman Davis asked what of the three (3) options in section 3 would relate specifically to car carriers. She said she does not have an answer to that and did not hear anyone answer that. She said until the answer is given and they know what it is, she does not know that this can go any further.

Town Attorney Alessi said while he was hearing the discussion to deal with Councilman Plummer's suggestion, he wrote out and this may help Councilman Davis's point – if you follow section 3 and option 1, there shall be no through traffic of ... just cross out the following vehicles, so that there shall be no through traffic of and then a blank and then after that in excess of 58 feet. He said for him, the question is for Councilman Plummer's suggestion, what noun does he put in the blank. He asked if it is tractor trailer combinations in excess of 58 feet, is it trucks in excess of 58 feet – that's where his ability to go farther stop. He said in trying to narrow it, that is where he tried to go.

Councilman Plummer said it is his understanding that the Vehicle and Traffic Law does make reference to car carriers and there is an exception on length for car carriers. He said he does not have that with him but found that out later in the day. He asked the gentleman from Callanan but he could not tell what the typical car carrier length is. He said he knows the State law allows them to be 65 and they get something that allows them to have overhang beyond that. Mention was made that 58 would be a little conservative to use that as a guideline. Town Attorney Alessi thus asked if there are car carriers that are less than 58 feet and what the Board's intention is if there are car carriers less than 58 feet.

Councilman Marcelle said he knows this was discussed this week but asked if Swift Car Carriers knew of the meeting. Supervisor Fuller said they knew and also knew about the meeting that was held last month and chose not to be here. He said Mr. Joyce who was at the last meeting and spoke chose not to be in attendance this evening. Councilman Marcelle said he finds it contemptuous when they have been the main problem for them not to show up. He said tonight he thinks the

legitimate business people of the community, the truck drivers, the Callanan's of the world showed up to make a case. He said he understands that they were not the problem in the first place. He said notification has been given and frankly, he said it is beyond contempt not to be at the meeting. He said he can only infer from that that the company does not care. He said it is a little hard and he agreed with the Supervisor that this has not been studied enough. He said there are a lot of ramifications but it is hard for him to be sympathetic for a company that is causing such negative impacts to the Town when they do not have the decency to show up to articulate why they need to do that. He said maybe they have a good reason but they knew this was a problem and not to show up concerns him. Mr. Marcelle said going back to the nature of the discussion of the draft local law, he said he could have helped to save Mr. Plummer's voice tonight. He said to look around at the experience of the Board, he does not think that anyone can tell what is included or excluded but he did take Mr. Stokes's suggestion that 58 feet is kind of conservative. He said he is not in favor of acting but he thinks maybe there should be some idea of what a length limitation would include and exclude so that they know the universe of who they are affecting. Mr. Marcelle noted he thinks it is premature to act at this meeting and agreed that there is a larger Town wide issue to be looked at as well.

Question was raised about Swift doing local deliveries and trucks, noting they do all their picking up in Bethlehem. Councilman Lenhardt said it was one point he wanted to mention when Mr. Alessi was speaking. He said he was using the word or but in the ordinance it says and. He said it means pickup and delivery in the Town of Bethlehem. He said Swift is not doing that, noting they are picking up at the railroad yards and delivering elsewhere. He said he wanted to say that he concurs that what is in front of the Board, he leans to option 1, however, it is not clearly defined yet. He said from day one his intention in raising this entire issue was to have some kind of ordinance in effect that would stop the carriers that were using this only as a cut through to get to the Thruway exit 24 when they had a viable option to get on the Thruway at exit 23. He said how you put that into words is up to the attorneys. Town Attorney Alessi said he thinks he can deal with all the words except for the classification scheme and that is where I leave it to Traffic Engineers. He said he appreciates Councilman Lenhardt's confidence but he does not think he will be able to meet the task all the way without that information.

Supervisor Fuller asked if there was anyone on the Board who would like to speak or if anyone was willing to set a motion to consider this further.

Councilman Marcelle made a motion to table the proposed local law. The motion was seconded by Mr. Plummer to table the proposed local law and return to the statute and try to single out and capture the tractor trailers being discussed which are the car carriers which are causing the major problem in this area. He motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

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Supervisor Fuller asked for clarification if Mr. Plummer was talking about a tractor trailer, is it a car carrier or is it all car carriers, therefore, are tractor trailers, is it combinations... Councilman Plummer said his view is the car carriers and that's what he understands if the problem. Supervisor Fuller said the Board needs to be specific as to what is the issue. Councilman Plummer said it is his understanding that when you use tractor trailer though it does capture some of the vehicles that the Board does not want to capture. A resident commented that the length restriction might have to be followed in that event. Councilman Plummer said if it can be done by length, that would be terrific but the Board does not know the length right now of the car carrier but under the definition of tractor trailer it does capture now some of Callanan vehicles and others in his industry so that is what he thinks needs to be clarified.

A resident said he understands what the problems are and he is not disagreeing with that but as an affected resident, however, he wants the Town Board to understand at least as he sees it is the concern about people cutting through the area to avoid a toll, to avoid a few miles. He said certainly not someone who has to get feed out to a bunch of cows up in Clarksville. He said that is not the intent of anyone on the street but they do have bigger problems in the area. He said they are concerned about the road improvements and noted they do deserve consideration and special consideration. He said they have more cars on the road than the bypass has each day and he does not think that is acceptable or appropriate. Councilman Davis asked if there is a recommendation for an alternate route to be used. The resident said to get to the Thruway there are 3 ways coming from Selkirk. He said they can go down 9W, over 32 to the bypass and around or he supposed you could go down 144 and over. He said there is an entrance to exit 22 on the Thruway on 144. He said there is one exit saved by cutting through Elm/Cherry Avenue to get to exit 24.

Councilman Davis noted this has been heard but again, she went back to her initial concern and it is still there. She said where will that traffic go and she does not want it to go to another neighborhood which will be affected. She said that is not an answer to anyone's problem.

Supervisor Fuller said the Board has a long agenda and noted Town Attorney Alessi wished to make a comment. Mr. Alessi said he just wanted to make sure that when everyone leaves here on this topic that he understands clearly the Board's desire so we can get something back before the Board that is expected. He asked if the Board wants a look at the consequences and where the trucks would go in the Town or is the Board satisfied at this point as to the answer to that question. He said that would require a look and he noted that he believes that someone who is qualified in the area should look at that. He said he is not qualified to look at the consequences of truck traffic when you ban trucks on a certain road. He said he thinks a lot of people have opinions on it but what is needed is someone's opinion that has some weight to it based upon experience. He said he cannot predict truck traffic behavior and he does not know if that is a concern for the Board. He said it is not, if the Board says considered that issue and it is not relevant or necessary with coming up with a local law, then so be it and it will not be looked at. If the Board says that needs to be looked at, Mr. Alessi urged the Board then to give guidance on who it is that should take a look at that. Finally, he said, in terms of the length, it may be the same person if you find it appropriate to have one, to take a look at if car carriers are less than a certain length would your expectation be that car carriers less than a certain length would be permissible or is it the Board's intention to say, all car carriers no matter the length and whatever the term is, in excess of a certain length. Mr. Alessi said if that is just something the Board wants to find out information and come back, so be it, but his concern is that when they come back this may be at the same point it is at now at the end. He said if that is okay with the Board, that is fine but he wanted to make sure the expectations are met for the next Board meeting.

Councilman Davis said to answer the first question, she requested as one Member, that consequences of whatever is done be included in the initial consideration. Supervisor Fuller asked if there were any comments. Councilman Marcelle said he thinks the Board knows what it is after but he thinks Councilman Davis has a legitimate concern and he said he does not know exactly who should be able to alleviate the concerns. He said he does not even know where to begin to help answer the questions, not that he would be opposed. He said he really does not have a position on it. Supervisor Fuller asked what the information is that is needed. She said the consequences need to be identified as to banning car carriers, banning trucks, banning length, weight – further asking what the information is to be looked for. She said she is sure many of the people in the audience are frustrated but commented that this has become an issue that everyone sitting on the Board is having difficulty with. She said it is ban car carriers and then you get into but what size and how long, what's the weight. She said what is the information

that the town Board need for the questions to be answered. She said what is the impact of banning whatever is being banned and how is it measured to the Town of Bethlehem when it is not clear yet.

Councilman Plummer asked the Town Attorney if under section 3, the tractor trailer combinations, and number 2 and 3, if there is a way of outlining there what the length of those 3 categories are in the statute and also is there a way of determining the length of what the car carriers are. He said he thinks that is information that can be gleaned from the statute and from, he assumed, the Department of Transportation so they know what vehicles fall under which category. He thought there should be a way to determine by length what type of vehicle goes to each category. Town Attorney Alessi said it is a legal and a technical question. He said the legal one is the Vehicle and Traffic law as a classification scheme, a definitional scheme. He said Federal Highway Administration has a scheme, DOT uses the FHA classification scheme. He said they all have meanings. He said his perspective is that there is a need for both components -- the legal which is ascertainable fairly easily and then what he is getting at is the second part of the classification scheme -- he is not so sure car carriers are defined totally by length and what he is hearing is that the Board is after car carriers and at a certain length. He said he is not so sure the existing statutory classification is going to meld up perfectly with what the Board is trying to go for in terms of a specific type of car carriers and the length. He said that is what has to be worked with and maybe come up with a definition. Mr. Alessi said that does not concern him, as much as, the next part is, car carriers that are less than a certain length. He said that is something that can be looked at. Mr. Alessi said he thinks it can be done but it is not just legal. He said there is a need also for someone who understands the nature of trucks and their components who can help with the definition. He said he does not think there is an on the shelf type definition that will be able to be used to meet the needs. He said he is hopeful that one can be found but he does not think it is likely.

Councilman Plummer said this goes to what Councilman Davis spoke about also, what about the consequences. He said that person would also theoretically be there to help in that regard. Town Attorney Alessi agreed and said one follows the other. He said you need to know what you are going to ban, in his judgment and saying this from logic not from a traffic engineering perspective, you need to know precisely what it is you are going to ban before you know what the consequences are of the ban. He said he thinks one is a predicate to the other and he thinks it is correct to think that the same person should be able to address both. He said there are people out there in the environmental analysis arena, traffic engineers, who do this for a living.

Councilman Marcelle commented that as this is drafted he would rather they err on the side under-inclusiveness than over-inclusiveness.

Supervisor Fuller said the next Board meeting of October 9th, hopefully, some work can be done in the meantime but the Town has to take a look at allocating resources to hire this traffic engineer. She said that opens up a whole other area of who is the traffic engineer, put an ad in the newspaper looking for this traffic engineer. So, she said this is not a decision to be dealt with tonight. She said they cannot hire someone sitting here at this meeting. She asked if there was anything else from any Board meetings. She thanked everyone for their attendance and noted if anything happens she will get it on the web page. She said if new information is received, it will be up on the web.

Supervisor Fuller noted the next item is a presentation by Mr. Edward Kleinke for the Rural Land Owners regarding a concept map and overlay.

Mr. Kleinke reviewed information and thanked the Board for getting them on the agenda to talk about agriculture. He said he wanted to introduce some of the people in the audience noting they are members of the Rural Land Owners. He

said this is an organization of property owners in the Town that have been working for a number of years on the issues related to agriculture and agricultural business. He said with him tonight is Sheila Powers, President of the Albany County Farm Bureau and Member of the Rural Land Owners and John Mead who is President of the Rural Land Owners. He thought after a brief presentation to the Board, they might have some words for the Board and also like to be a little bit informal and if the Board Members have questions, to please ask along the way.

Mr. Kleinke said he would like to accomplish 3 things – update the Board since it was about 2 years ago that the presentation was done for the Board and introduce a concept of an agricultural business viability overlay – a zoning concept that they think would be an appropriate way to approach agriculture and agricultural business and the implementation of these concepts they have been talking about for quite some time. He said finally he would like to propose several implementing actions that can be started right now at this point in time while some of the other considerations are taking place.

Mr. Kleinke said the Board has a number of materials before them and noted these items. He said it is part of the materials that the Rural Land Owners put together a number of years ago in terms of concepts and an approach to planning. He said the planning approach that they envisioned was to promote an effective planning process in the rural not zoned district of the Town. He said that was the primary focus. He said the Rural Land Owners goal was to effectively work within the context of zoning and to deal with the issues of agriculture and agricultural business and uses. He said this approach has been advocated from the beginning. He said as a result of this approach and meeting with the Town Board and the Town staff, the Supervisor appointed a task committee that had a couple Town Board members on it, the Town Code Enforcement officer, as well as, some Rural Land Owners members. He said as a result of their focused efforts, a number of concepts were presented to the Town Board in October of 2000. He said that is what occurred up to that point in time.

Mr. Kleinke said since that time, while it may seem like a lot of idle time has gone by, the Rural Land Owners have been quite involved in a couple other activities going on around the County and they involve the development and preparation of a farm land protection plan that is being done through soil, water and conservation, Albany County Cooperative Extension, as well as, the Albany County Legislature and New York State Agriculture and Markets. Secondly, Mr. Kleinke said there is an ongoing process that he thought the Board was aware of, Ag District Number 3 that is under its mandated review period and has been added to and revised and that is approaching the Legislature this fall for acceptance and adoption. He said those 2 things have involved the Rural Land Owners so during this time they have been active in providing input to those 2 efforts.

Mr. Kleinke said it is really kind of appropriate that they are here tonight at this point in time because those 2 processes are going on at the County level and they will be coming to a point of fruition this fall and later in the year and so what they wanted to do was ask the Town Board to begin to take a look at some implementation of some of the concepts that were put forth 2 years ago and timing is great because this effort on the Town of Bethlehem would coincide with all the other efforts going on County-wide. They think this is important that they all be in sync, according to Mr. Kleinke.

Mr. Kleinke exhibited a board and acknowledged this was difficult to see but what they would like to talk about is a concept of an overlay district. He said he took the map and superimposed on it and put it on top of the zoning map. He said part of the problem is that the zoning map is not really overlay friendly. He said it is a real challenge to show graphically the components found on the screen as they may look. He said the areas are defined and noted some areas are shaded but they are identical to what is shown on the screen. He said the purpose of this is that the concept of an overlay would be a part of the zoning code and it would, in fact, kind of rest over the entire Town. He said it would not change any of the

underlying zoning. He said all of the zoning districts would remain but the advantage of doing an overlay is that then the concept of agricultural business as shown on the re-hatching as some general areas of primary focus, those areas would then be able to have some guidelines within the zoning code. They would have some definitions in the zoning code, according to Mr. Kleinke, and they would have some goals and intents of their purpose. He said all in all the end result is to be able to effectively promote and encourage agriculture in the Town really beyond where it is as an important part of our economic base here in the Town of Bethlehem.

Mr. Kleinke said the agricultural community does provide a substantial part of our economy here in Town. He said he thinks everyone knows, agriculture is the number 1 industry not only in the United States but in New York State. So, he said we are right along with the rest of the State and as many people think of us as a strictly suburban kind of community/residential community, there is significant amounts of land, as well as, agricultural activities taking place here in the Town. So, he said their effort is really to address that and be able to provide that in a much more effective way.

Mr. Kleinke said the concept of an overlay really follows what is on the Town zoning map and is what was shown to the Board and presented 2 years ago. He said it really has not changed at all. He said along with that the overlay would include a map, definitions and other various types of conditions that relate to agriculture. He said some of those things are on another page in the handout materials and relate to hamlets, rural architecture, farmstead design and the list included. He said those things would be incorporated, as well, into the language of zoning.

Mr. Kleinke said the purpose is to not effectively attempt to change any of the underlying zoning but to use what is really a common, acceptable planning technique in addressing specific issue and the specific issue as has been talked about over the years is agriculture. He said it is their thinking that this is an appropriate direction to take. Finally, he said they have put together some proposed implementing actions and he thinks everyone on the Board should have a copy of a couple pages of that. He said there are 4 of them and just briefly noted.

1. Like any legislative actions that the Board takes and Mr. Alessi talked about it earlier, that local laws and local regulations a lot of times are prefaced with intent and purpose and so part of what needs to be done is to formulate a statement of support of the importance of agricultural business and the need to incorporate code related strategies into our Town code.

Secondly, Mr. Kleinke said is to amend the Code of the Town of Bethlehem, Chapter 128, Zoning, which would include initially definitions. He said there are several that throughout the process they have come to terms with, primary one being agricultural business and that is as related here. He said it means the employment of property the primary purpose of obtaining a profit by raising, harvesting, selling crops, feeding including but not limited to grazing, breeding, managing, selling, producing livestock, poultry, fur bearing animals, honey bees or by dairying the sale of dairy products by any of the horticultural, floricultural, viticultural use, aquaculture, hydroponics, silvaculture, by animal husbandry or by any combination thereof. He said that includes the current employment of land for the primary purposes of obtaining a profit by stabling or training equines, horses, including, but not limited to providing riding lessons, training clinics, schools, shows, as well as other on-farm niche marketing promotional activities. He said this sounds like it might be a far cry of what they traditionally think of as agriculture and farming but in reality it is not. He said all of these kinds of activities or none of these activities are really new to the farming community. He said they have been around a long time. They may not have occurred in the Town of Bethlehem, according to Mr. Kleinke, but in fact, they are an integral part of the agricultural activities that take place in New York State and in this country.

Second and third definition that they think are important this time, Mr. Kleinke said, are the rural based density. He said this is a methodology that incorporates evaluation of soil, slope, vegetation, depth to bedrock and depth to groundwater to determine the capability of the land to accommodate things like houses and sanitary systems and water supplies. He said it is important to be able to address this as well. Extraction, Mr. Kleinke said, is something we are blessed with a lot of different kinds of natural resources in our Town and we need to be able to find a way that they can be managed. He said these are things like timber, soil, sand, gravel, clay and stone. He said those are several definitions that could be moved forward and put in the Code sooner rather than later.

Thirdly, he said they have a number of concepts that are associated with all of this and have been a part of the discussions. He said they are expressed in concepts in the materials presented including technology manufacturing, riverfront opportunities, farm to market roads, rural architecture, farmstead design and hamlet/hamlet expansion. He said he thinks for the Board Members, hamlet/hamlet expansions on their copy was lost in electronic limbo, noting it did not print out. He said they would like to add that to their list.

Fourth their goal, according to Mr. Kleinke, is to be able to design an agricultural business viability overlay which is applicable to the Town and said he has identified a little bit of purpose in there because he thinks it is important that it is clear that it does have some purpose and specificity in the agricultural business viability overlay. He said the guidelines are intended to provide opportunities and support the land owners to pursue agricultural business uses of the land and related activities thereon as an integral part of the Town's economic base. These guidelines, Mr. Kleinke said, are intended to encourage both traditional, as well as, contemporary agricultural land uses methods and purposes, in accordance with the definition. He said their goal is to have things that would be in the Code related to the information that has been talked about, specifically the definition of agricultural business, as well as, some of the others.

Mr. Kleinke said those were the things he wanted to get through. He noted no one asked any questions but if there are any he was happy to answer them. He noted Mr. Mead and Mrs. Powers wished to make a comment.

Question was raised with regard to translating the planning concepts and if this was to define and add them to the Code regulations. Mr. Kleinke said that was correct. He said they are suggesting they need to go from the concept language to a different, more specific, more focused kind of language. He said their goal is to be inclusive of those definitions as part of this concept of an overlay.

Comment was made that this raised a couple questions. It was asked that how does this overlay impact the LUMAC plan that was presented and fostered the group to get together. Mr. Kleinke said he looks at this overlay as having a primary goal that will be promoting agricultural business and uses throughout the Town no matter what the zoning is underlying. He said whether it is the present zoning that is in place or future changes. He said the overlay would continue to provide these kinds of agricultural opportunities in those areas that the overlay designates.

It was also asked that with the existing zoning map with the overlay if this is in addition to what lies underneath and comment was made that in the rural not zoned areas, it is almost carte blanche in this example. Comment was made that the concept was good but more definition needs to be given especially in areas without zoning. Mr. Kleinke noted that this was correct as far as there are varying degrees of restrictiveness or unrestrictiveness throughout the Town in the various districts. He said he believes that the rural not zoned district, does have some regulation to it. He said it is listed on the map, listed in the Code and it is, in fact, a district. He said it may have very huge doors open to it that allow a whole variety of kinds of uses into it without or with very little oversight. He said the goal of the Town Board, perhaps, may be to look at those areas, narrow the door down a little

bit and be able to address and deal with the conventional uses that probably are more typical of zoning districts. He said if the question was in the overlay address the narrowing of that door down in the rural not zoned districts, he was not sure. He thinks they are two different issues and he thinks the overlay needs to be kept separate and consistent throughout the Town. He noted it is very important that what can be done agriculturally in South Bethlehem could be done in North Bethlehem. He said that concept and consistency is best achieved without getting into the actual underlying districts. He said the underlying districts could be addressed separately and that door, so to speak, could be narrowed if the Board wishes to do that and in a manner they wish to do it, as well as, some of the other districts in Town could be changed one way or another to address technology manufacturing for example as a concept that perhaps the Light Industrial District or C Commercial District do not really address. He said he thinks there is 2 different issues, 2 different tracts so they could both go along at the same rate and at the same time but he thought they needed to be somewhat separate. An additional comment was made that a narrowing of that door would be appreciated, including the concepts that are proposed but also including language that is more definitive of what is appropriate above and beyond the overlay.

Mr. Kleinke said the work to do an overlay and sort of finish legalistic zoning, regulatory language and graphics and discussion, takes a lot of discussion and work. He said certainly these things can be a part of that discussion. He said they may not be part of the action that takes place with the overlay but they can be included and part of it. Town Attorney Alessi said he wanted to be clear and asked with an overlay district in essence, the proposal is to say that it does not affect the underlying zoning code nor enlarge or decrease a district. He said the overlay is taken with its own regulation and it kind of floats over and locks down in certain areas. He said whatever would be lawful in the overlay, would be lawful in the hatched areas on the exhibited map. He said so if it happened to also be some residential zoning, etc., the overlay comes in and says that these would be allowed which would be a little bit different than the zoning code. He said the overlay does not in any way affect the underlying zoning. Mr. Kleinke said this was correct. Town Attorney Alessi said that in essence is the nature of an overlay district. He said he did not want anyone to think that they are taking on the burden of in an overlay of also dealing with the underlying zoning. He said they are just bringing something additional in which is agricultural in its roots so that for example, in an area that might otherwise be residential and have some conflict with agriculture, agriculture will resolve that and they also know that at the State level, the agriculture and markets law has already been doing that to some degree but not to the extent that may be necessary in certain towns. He asked if that was correct. Mr. Kleinke said that was a very good summary and thanked Mr. Alessi.

Question was asked if the overlay was implemented if anyone knew of business ventures that are out there or might take advantage of this proposed overlay. Mr. Mead noted that their farming operation has increased and one of his children bought on Waldenmaier Road and is doing horse/pony business. He said he guesses his family has been growing in the farming operation. He said he thinks there are some places, including a little vegetable place on Route 9W and noted there are other ones he probably is not thinking of at this time. The question was raised if this would encourage more agricultural uses. Mr. Mead said he thought it would because the person knows where they can go and what the situation is. He said they laid out something they can all follow. He said the way it is now it is okay for certain farms because they are grandfathered but this other one is not.

Mrs. Powers noted the entire purpose and focus of the proposal is to be respectful of the fact that that opportunity needs to exist and in order for it to exist in the Town of Bethlehem, the Town Board because we are a home rule state, has to take upon themselves the responsibility of stating things in such a way that you encourage those operations to go forward. She said then people who either own now or want to own rural property to do these various agricultural business operations, know that they have the support of going in to do it. She said as it currently stands, there is absolutely, not a single statement that is part of Code in

the Town of Bethlehem that supports agriculture. She does not think that is the intent for it to remain that way so this is a step forward to start to fix that.

Mr. Kleinke said he thinks the goal in addition is to be able to encourage and promote and be able to maintain and retain agricultural operations. He said a lot of the agricultural operations are the reason that a lot of the Town looks the way it presently looks. He said a lot of our open space are, in fact, agricultural uses and they believe that the farm community are the best keepers of the land in terms of being conservatory, environmental and waste management matters. All of these things, Mr. Kleinke said, as not only private property owners but as farm business people.

Supervisor Fuller noted she knew some of the residents that are concerned about zoning and she did not know if they remember, there was a meeting when she said there are people sitting at the meeting who were opposed to zoning. She said this is all part of the picture. She said when this started, the LUMAC committee who had worked on this for over 10 years, maybe even 15, they presented their proposal and large land owners, the agricultural people came forward and said we really did not have an opportunity to address this issue with your land use plan and asked to have time to take a look at this. She said they did and they did not want to end up with their property being zoned as conservation zone. She said this is how all of this started. She wanted to make sure that the audience knew where this came from.

Mr. Kleinke thanked Supervisor Fuller and asked if there were any other questions. Mrs. Powers read a statement as President of Albany County Farm Bureau. She said she is honorary member of the Rural Land Owners of Bethlehem and a Member of the Bethlehem Grange. She said she was here to urge the Town Board to implement the steps asked for by the agricultural community of the Town of Bethlehem. She said this will support the viability of agricultural business in the Town by adopting the strong definition of agriculture introduced this evening. She said the definition has been reviewed, accepted, and endorsed by the largest farm member organization in New York State, the New York Farm Bureau. She said as such, it appears yearly in their booklet of public policy statements. She said the Town's adoption of this definition along with a statement of intention to promote and support the agricultural business viability of its Bethlehem residents, is timely right now. She said the farm properties in New York State Agricultural District No. 3 are being reviewed and accepted by Albany County Farmland Protection Board, Cornell Cooperative Extension of Albany County, the Albany County Planning Department and finally, in November and December, the Albany County Legislature. Following this, Mrs. Powers said, and upon acceptance by the Albany County Legislature, they will be reviewed by the New York State Department of Agriculture and Markets for inclusion as District No. 3 and become part of the agricultural districts of New York State. She said this activity is occurring at the same time as that of the County Farmland Protection Board and the Albany County Planning Department with the working farmers of Albany County and the assistance of Cornell Cooperative Extension which his creating a farmland protection plan for Albany County which will be adopted by the Albany County Legislature. She said she tells this purposely and deliberately for the Town Board to understand that it is not merely an academic exercise. She said she has invited herself to all of the meetings even though she is not a member of the Board and have actively participated in the entire business over the past several years it has been going on. She said quite frankly, as Albany County Farm Bureau President, it is her responsibility to see to it that the working farmers, absolutely, have opportunity to express their opinions and continue to mold the discussions as they go along. She said that is precisely what they have been doing, as a matter of fact, this is the second review of what has been written for them by other people and which they have denounced and suggested alternatives for which are now being recreated. She said this action is very, very important to them. She said it is important that some silly thing not be adopted for agricultural protection which, in fact, does not protect agriculture at all. She said it is just as important for them in Bethlehem that the Town make some statement at this point of support and the

intention to continue to support agricultural business viability. She said that is the entire purpose of the New York Agricultural District law after all. She said initially it was to prevent people who owned that property from being under the pressure of development.

Mrs. Powers said this all goes in step. She said the adoption of the agricultural business viability overlay as part of the Town's zoning, ensures continued economic stability in Bethlehem, they think, with agriculture as an acknowledged continuing component. She said adoption of this overlay district is an intelligent step towards the future of Bethlehem, guarantees stability of both a firm and progress economic base, as well as, continuing the very land use vistas to be enjoyed by all of Bethlehem's residents. She said in conclusion, they wanted to remind everyone that the Rural Land Owners have never asked for no zoning. She said they have asked that their needs be treated with respect, therefore, they have asked for a strong statement of support now and that this be adopted by the Board enabling it to move forward so that further implementation can take place. She thanked the Town Board.

Supervisor Fuller asked if there were any further questions from the Board. Mr. Kleinke thanked the Town Board for the opportunity and encouraged the Board to seriously look with the idea of beginning to implement some of these things. He said they think it is timely and this can be done and some of the initial steps could be done shortly. He said they look for the Board's support.

Question was raised regarding other locations and why they were not included in the overlay areas. Mr. Kleinke said at the time the information was prepared, the map was put together 5 or 6 years ago, the resources used and input from the Rural Land Owners and much of the areas that are shown on the maps were generated based on people's input and maybe it was an oversight but he did not think there was anyone there who was asking for or indicating that that could or should be part of it. Mrs. Powers said they originally made an attempt to reach every owner of property using the Town's real property list. She said they notified every single individual who owned on the tax roll a piece of property that was 10 acres or more. She said they can only deal with those who responded and noted it was 6 or 7 years ago, noting it was a good year or year and a half before that.

Question was asked as to whether this land can be included now. The answer was that it can be. Mrs. Powers said they simply need a request to do so. Mr. Kleinke said the map shown is, in fact, what was started with in the discussions and it has not been amended it to this point in time because wanted to be consistent in the approach that was talked about and the concepts that were put forward. He said the development of an overlay is obviously open to input from everyone in Town, as well as, the land owners if they were not owners in the past when it was put together. He said there is an opportunity to take a look at any of these properties.

Review was again done of the information regarding the entire State recognizing the agricultural district and the changed environment of agricultural business uses. Mrs. Powers noted notices of review of this were sent out and if there was no response received, they did not contact again. She said if someone did not respond, it is not too late. She said the night it is reviewed by the Albany County Legislature which is going to be in either November or December is the time when there is a review and accept and acknowledge it. She said it is a public hearing so that anyone who at that point wants their land included has their opportunity at that very moment at that meeting to request that and it will be included. Mrs. Powers said it has to be the owner and it is entirely voluntary. She said no one goes ahead and just simply lines up lands because they are open. She said that is deliberately an opportunity for land owners to enroll if they wish to.

Town Attorney Alessi said as a point of clarification, as he understands it, even if someone said they wanted to be in the proposed overlay district, if their underlying zoning allowed commercial or whatever, this does not stop them as

using it as a commercial purpose. He said it just give the protection that if they want to maintain and grow agriculture, this protects them in order to do that but it does not prevent them from otherwise using the other aspect of the existing code. Mrs. Powers said that was correct.

Question was raised as to the redundancy of this proposal since the rural not zoned area has no restrictions. Comment was made that anything is allowable now. Mrs. Powers said there is no suggestion that things are not allowed. She said the fact of the matter is that agricultural uses are not encouraged. Town Attorney Alessi said he thinks the question is whether there is anything in the existing code that does not allow for what is proposed and if the answer is no, where is this being proposed, it would be redundant for what is already there. Further comment was made that this is a very important part of the process. A resident said it concerns him that it is being considered to be codified at this point without further discussion. Town Attorney Alessi said with the State Agriculture and Markets Law and they continue to amend it, there has been continual uncertainty as the relationship between local zoning and what the State Agriculture and Markets wants to do. He said he has seen this for the first time tonight and he cannot answer the question item by item. He said there are items on this that are not clear and in some instances some people have argued and can argue that it is not expressly authorized under our code. He said he thinks what most people would understand is that agriculture uses under the modern day definition which is in the New York Ag and Markets Law. He said he cannot answer the question specifically but there are some things here that he has read through that he is not sure is authorized in the Code and although it was suggested under ban, under zoning parlance it is whether it is authorized. He said there are some things that an argument could be made that they are not authorized and as he understands the purpose of this, it is to eliminate the uncertainty so that it is clear for the agricultural community that it is authorized.

Explanation of who the Rural Land Owners of Bethlehem are following a question of who they are by a resident. The Mead family has been farmers since 1791 when the family acquired the land, noting that is 2 years older than the Town of Bethlehem. Mention was made that they are simply looking for the opportunity to continue in agricultural business. Another resident commented that she would like to see industry and agriculture work together. It was also mentioned that there is a need to support and encourage agricultural business. Supervisor Fuller said 3 of the Town Board Members have been on the Town Board through all of this and many in this community, long time residents, did not want the zoning in the southern end of Town. A resident challenged this information noting the large land owners have been misrepresented. Mr. Mead provided some background information regarding the change of things over the years and the request for the agricultural district designation. Further discussion ensued regarding the proposal and continued discussion of the proposal.

Comment was made that before any zoning is implemented, there has to be a public hearing held. This gives everyone the opportunity to speak and the Town Board decide on the merits of the proposal based on the results of the public hearing. Supervisor Fuller said this will not be one public hearing but may result in several public hearings but there is a need to start some place.

Town Attorney Alessi said he has had experience with zoning in a variety of municipalities across New York State and an agricultural overlay is certainly worthy of discussion. He said it is not really an overwhelmingly new concept. He said the New York State Legislature has already determined that agriculture is an important part of our State for all the reasons you have heard tonight and many more and as everyone sits here tonight, there is a public record in the Town Clerk's office many instances where New York State Agriculture and Markets has written letters that said that our local zoning is not consistent with the State law and that it is too restrictive. He said he thinks what he is understanding as part of the motivation and impetus for this is to really align local zoning more with the policies that have already been passed in the State. He said as he understands in

other communities the effect of what has happened is that these overlay districts preserve agriculture. He said they do not really resolve underlying zoning disputes like have been heard tonight, that they do not get at that but one thing they can do which may be of mutual benefit and interest to everyone is in determining whether to approve anything be it a site plan, a subdivision, a zoning variance interpretation, you look at the comprehensive plan in a town. He said a comprehensive plan by law does not have to be in writing. He said it is the overall zoning, it is the decision making, etc. He said if you have an agricultural overlay district consistent with what was said, if somebody comes into one of these areas and even if the underlying zoning may allow it, the presence of an agricultural overlay district may be enough of a factor along with State Environmental Quality Review Act to say that maybe it does not address SEQR but also it is inconsistent with the agricultural overlay district and even though the underlying zoning may allow it, this may be a deciding factor. He said every case gets decided on its own facts and its own merits but he just wanted to point out that these types of actions usually are viewed both by the Legislature and the courts as enhancing agriculture and not doing really anything else. He said it does not affect the underlying zoning, it does not help people who have a positive view of the existing zoning and it does not help people who have a negative view of the existing zoning. He said it just imbeds agriculture in the community and protects them and he recommended to them Agriculture and Markets which has a wealth of information about these types of issues because in the end it really does protect and keep agriculture and in some instances encourages agricultural to come in. He said he just wanted to give a capsulization of what the effect is in other communities in New York State and the other issues he is hopeful that people talk and you end up with a few more mutual interests with regard to the topic.

Mrs. Powers said it was asked if they knew of an operation that would come in if this were there. She said as a matter of fact, one of the things that an adoption of a strong statement such as we have asked for, what hopefully this will do is where you have people already living on that land who in case after case after case have left the farms and left farming as a way of life because it is simply too difficult for many reasons – not because it is hard work, not because you work sun up to sun down and later but because nothing encourages you to be there. She said nothing respects your efforts. She said a statement on the part of the Town Board such as they have asked for, would make an enormous impact on the attitude of the younger generation living on those farms. She said it is after all that that families who are 8 and 9 generations of farmers are concerned with. She said that is her concern is that youngsters and their definition is so thorough and that is why the statement refers to agricultural business and agricultural business viability so that young people growing up understand that indeed you can make a living with modern agriculture with substantially less land, albeit maybe more equipment, and make a decent income at it. She said there are examples of it all over the place. She said it requires the support of the community and certainly requires the support in New York State of the local government being willing to make a supportive statement. She said otherwise it is just a joke and you are in the position of... for example, farmers in Guilderland who have their bankers saying you guys better start selling anything you can sell, they just are not going to keep you here. She said that is the other side of the coin and that is the other world she works in the rest of the week. She said this is why they are making a strong appeal to say too much time has gone by, too many loses have been incurred. She said it really would be a good thing for everybody to have this time. She said the fact of the matter is that this is something that needs to happen for the good of us all. She said that way, Bethlehem can continue its viability and furthermore, the farming community will feel that they are respected which it has to be a benefit for the rest of the residents of Bethlehem. She said that directly addresses do you know other people who would come in if that were done. She said absolutely, they are known as the children and grandchildren of the people who are here.

Mr. Mead thanked everyone for coming to support the Rural Land Owners. Supervisor Fuller asked for a motion of support. She said it does have to be reviewed by the Town Planning Department and this can come back for further

discussion. She said as far as a motion to adopt this tonight, that is not going to happen. She said they can have a motion for a strong support of agriculture.

The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to make a statement of intention to promote and strongly support the agricultural business viability of the Bethlehem residents within the Town of Bethlehem. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer,
Mr. Marcelle.

Noes: None.

Absent: None.

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Supervisor Fuller noted this gives the motion that was requested. Mrs. Powers said as Mr. Alessi has stated, the effect it would have on agricultural business viability for the Town of Bethlehem. Mrs. Fuller noted they just need time for the Planning Department to take a look at this. Mrs. Mead said it is okay they are not going anywhere.

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 Mr. Plummer and seconded by Mrs. Davis to approve the appointment of seasonal personnel as listed in the Memorandum dated September 25, 2002 at the titles and salaries listed as requested by Nan Lanahan, Director, Parks and Recreation Department. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

The next item was a request from Nan Lanahan, Administrator, Parks and Recreation Department, for approval of award of bid for fencing at Elm Avenue Town Park to AFSCO Fence Company, Latham, NY at the bid price of \$21,150. which is within the bid price projection. Supervisor Fuller noted they have done work for the Town previously.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to approve the award of bid for fencing at the tennis courts at the Elm Avenue Park to AFSCO Fence Company, Latham, New York at the bid price submitted of \$21,150. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

The next item was a request from Engineering Services Administrator, Michael Cirillo, for acceptance of deeds for Beaver Dam Road, Selkirk for sanitary sewer easements.

The motion was made by Mrs. Davis and seconded by Mr. Marcelle to accept the deeds for Beaver Dam Road, Selkirk for sanitary sewer easements as requested by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.
Absent: None.

The following item was a request from Michael Cirillo, Engineering Services Administrator, for acceptance of deeds for Wiggand Drive East, Glenmont for drainage easement purposes.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to approve the acceptance of deeds for Wiggand Drive East, Glenmont, for drainage easement purposes as required by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

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

The next item was a request from Michael Cirillo, Engineering Services Administrator, for acceptance of deeds for Bridge Street (Route 396), South Bethlehem for sidewalk easement purposes.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the acceptance of deeds for Bridge Street (Route 396), South Bethlehem for sidewalk easements as requested by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

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

The next item was a request from Building Inspector, Kevin Shea, for approval of dumping permit for property located at 81 Beaver Dam Road, Selkirk. Mr. Shea noted this is for clean fill and said this was reviewed by the Engineering Department. He said there are some stipulations imposed with this and nothing different from other permits. He said he does recommend approval of this request. Mr. Shea noted he has not received any calls or inquiries regarding this request.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to approve the issuance of a dumping permit for property located at 81 Beaver Dam Road, Selkirk. The motion was passed by the following vote:

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

The next item was a request from Highway Superintendent, Gregg Sagendorph, for approval to authorize the Supervisor to sign a grant related to the 2003-2005 Household Hazardous Waste Days and electronic recycling programs. Supervisor Fuller said it is anticipated the Town will receive approximately \$22,800 in grant money from the State of New York for the 2002 programs.

HOUSEHOLD HAZARDOUS WASTE (HHW)
STATE ASSISTANCE PROGRAM
RESOLUTION

Resolution Authorizing the Filing of an Application for a State Assistance from the Household Hazardous Waste (HHW) State Assistance Program and Signing of the Associated State Contract, Under the Appropriate Laws of New York State.

WHEREAS, the State of New York provides financial aid for Household Hazardous Waste Programs; and

WHEREAS, THE Town of Bethlehem, 445 Delaware Avenue, Delmar, NY 12054, herein called the MUNICIPALITY, has examined and duly considered the applicable laws of the State of New York and the MUNICIPALITY deems it to be in the public interest and benefit to file an application under these laws; and

WHEREAS, it is necessary that a Contract by and between THE PEOPLE OF THE STATE OF NEW YORK herein called the STATE and the MUNICIPALITY be executed for such STATE Aid;

NOW, THEREFORE, BE IT RESOLVED BY the Town Board of the Town of Bethlehem:

1. That the filing of an application in the form required by the State of New York in conformity with the applicable laws of the State of New York including all understanding and assurances contained in said application is hereby authorized.

2. That the Supervisor of the Town of Bethlehem, or her designee is directed and authorized as the official representative of the MUNICIPALITY to act in connection with the application and to provide such additional information as may be required and to sign the resulting contract if said application is approved by the STATE;

3. That the MUNICIPALITY agrees that it will fund the entire cost of said household hazardous waste program and will be reimbursed by the State for the State share of such costs.

4. That five (5) Certified Copies of this Resolution be prepared and sent to the NYSDEC together with a complete application.

5. That this Resolution shall take effect immediately.

The foregoing resolution was presented for adoption by Mrs. Davis, seconded by Mr. Lenhardt and passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle

Noes: None.

Absent: None.

The following item was to adopt a resolution approving appointment of Democratic Poll Clerks as submitted by the Bethlehem Democratic Committee.

The following resolution was presented for adoption by Mr. Plummer and seconded by Mrs. Davis:

RESOLVED, that pursuant to Article 3 of the Election Law, the following persons be and they hereby are appointed Poll Clerks as recommended by the Democratic Committee for the term beginning July 15, 2002 through July 14, 2003 as per attached list (on file in the Town Clerks Office).

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

The next item was a request from Kathleen A. Newkirk, Town Clerk, for approval of appointment of part-time Records Clerk pertaining to 2002-2003 Grant received for Historical Records. Supervisor Fuller noted the Records Management Program has received an award of a 10th Local Government Records Management Fund Grant in the amount of \$13,400. This brings total monies received over \$170,000. The Supervisor noted this grant will allow for our historical information and sites put on the website.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to approve the appointment of Kira Zaikowski, Albany, New York to the position of

part-time Records Clerk at a salary of \$8.74 per hour to work on the Historical Records grant. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

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Supervisor Fuller thanked Town Clerk, Kathleen A. Newkirk. Councilman Davis asked how many hours this will be. Town Clerk Newkirk said there is a meeting to be held with the consultant and lay out exactly what is to be placed on this website, including pictures of the historical sites. She said therefore, the number of hours is not known at this time and noted the amount of information will depend on the meeting with the MIS people. She said some descriptions of the historical record series has been done by Town Historian, Joseph Allgaier. Councilman Davis asked it was just this semester or next semester as well. Town Clerk Newkirk said the grant cycle is July 2002 to June of 2003 but anticipate being done before the June 30th date.

Supervisor Fuller asked if the salary for this position will be coming out of the grant funds. Town Clerk Newkirk noted it would be, as will the consultant salary also. Councilman Davis thanked Town Clerk Newkirk.

The next item was to acknowledge receipt of Final Plat for the Carriage Hill Subdivision, Jericho Road, Glenmont, from the Planning Board for information purposes.

The next item was to approve Town Board minutes of August 14, 2002 and August 28, 2002.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the Town Board minutes of August 14, 2002 with a correction on page 3 and on the August 28, 2002 minutes on page 1. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

Councilman Marcelle mentioned that he wanted to say one thing. He said he has gotten a lot of mail from dentists concerned about the fluoride in the water. He said he just wanted the Board at some point, maybe after the budget is completed, to look some time in November to put that on for a hearing because there is confusion among parents about how to administer the fluoride, how much water we are getting from Guilderland, so on and so forth. Supervisor Fuller said she has had phone calls from probably the same dentists that have contacted Mr. Marcelle and she has tried to clarify them for them but the best advice for them is to contact their pediatrician and not necessarily ask the Town Board to deal with this fluoride issue. She said it is the pediatrician's that need to handle this. She said some are getting out with the facts and others are not. She said certainly this is something the Board can take up but looking at the agenda over the next 6 months it would be difficult.

Councilman Marcelle said he actually means fluoridate our water system, a bigger issue than that one. Supervisor Fuller noted he was looking to go completely into fluoridation. She apologized noting she misunderstood his request. Mr. Marcelle said it is a bigger issue than that. He said it has probably been a while since this issue has been raised. Supervisor Fuller said she admired his courage. Councilman Lenhardt said it was before his time.

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Resident Marie Capone asked to speak about 3 things. She said 2 farms went under in the Catskill's last week.

Mrs. Capone said the street people are putting out a paper and it is important that everyone buy it. She said there is a man that wrote a book and he was a person that lived in the Grand Central and one day found a pencil and wrote the book and is now a writer. She said it is beneficial to read it.

Mrs. Capone said the third thing is that a little while ago her daughter, Susanne, went to a hairdresser down the street and cut 10 inches of her hair for locks for love in Florida. She said it is on the Internet. She said she is starting to grow it again. She said this is something that can be done for other people.

The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to adjourn the regular Town Board meeting at 10:40 p.m. The motion was carried by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

Town Clerk