

TOWN BOARD
SEPTEMBER 26, 2001

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

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

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

The first item on the agenda was a presentation by Chamber of Commerce Executive Director, Marty Delaney, regarding potential grant funding for the Four Corners Improvement Plan. Ms. Delaney thanked the Board for putting this item on the agenda. She explained that a group of 4 corners merchants, neighbors, Town officials and the Chamber of Commerce have been working for about 3 years on brainstorming ways to improve the looks of the 4 corners and hopefully the entire business district. She said there have been different fund mechanisms looked at for the improvements and there is an available technical assistance grant that is from the Governor's office of small cities. She said they have hired a grant writer to help apply for the grant and noted time is of the essence. She said there is a draft ready and noted they have created a vision for the area of the 4 corners. She said there is a need for support financially to do a professional plan to go out and look for funding to do these items.

Ms. Delaney said they are ready and willing to get this grant off the ground, however, the Town Board's approval is needed to authorize Supervisor Fuller to sign the grant. She said the grant will allow the Town to hire an engineering firm, and design firm to put together a total comprehensive plan for the entire area including a projection of costs for some of the things proposed. She said this grant is for \$25,000 and the Town Board needs to approve a \$10,000 match, much of which could be in-kind services.

Question was raised as to how long it might take to find out the results of the application. Ms. Delaney said she did not know the answer to that but she thought it was quick. She said this is a very competitive process, noting there are a lot of communities applying for this money but she feels they have established a very good case with demonstration of a need and commitment to the project.

Supervisor Fuller said there is a head start with the renovation of Gayle Sundling's property. Ms. Delaney said it is looking good and said a lot of interest has been generated as a result of this also.

Question was asked if this program has funding for the actual capital projects that would take place once the plan is in place. Ms. Delaney said that is the next step that has to be taken and they are making a commitment to go forward to raise the additional money through the various sources. She said when you are looking for funding, everybody asks what you want and where is your plan. She said they just cannot walk in with a drawing on a piece of paper. She said there needs to be a solid professionally designed plan. Councilman Plummer said he agrees and supports this proposal.

Question was asked if this was successful if it would set the ball rolling to be successful for future grants. Ms. Delaney said she does feel that will happen,

noting it will show that they have demonstrated the need and the commitment. She said by the Town Board approving this to go forward, it shows the Board's commitment to get behind the Chamber of Commerce due to it benefiting the entire community.

Question was raised if the Town is the applicant whether there would be a project manager and who that might be to oversee the project. Ms. Delaney said that was a good question to which she did not know the answer. She said she would imagine it would be the Town Board, noting this would be her assumption. Supervisor Fuller noted this was only the plan to have the consultant produce the plan that has been put together. Ms. Delaney said this was correct. She said quite a bit of the plan has already been outlined and donated.

Question was asked as to whether a time has been set for these various stages that have been outlined. Ms. Delaney said the time line has not been set. Mention was made that 6 months was mentioned. She said some of this has already taken place, noting the vision plan is already in place.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt that the money match be approved in the amount of \$10,000 and the Supervisor be authorized to sign the grant application. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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Ms. Delaney said Mrs. Kehoe, Comptroller, has the copy for signing and thanked the Town Board. Supervisor Fuller thanked Ms. Delaney.

The following item was the presentation of the Tentative 2002 Budget for the Town of Bethlehem to Town Clerk, Kathleen A. Newkirk.

Supervisor Fuller gave the following budget message:

The Town Board has just received a copy of the budget. It is the first step in putting together a budget for the entire Town and this is the presentation as it's being given to the Town Board and we will be back for meetings to discuss it on October 11th.

2001 has been relatively kind year to the Town of Bethlehem certainly after far too much excitement for any of us. The settlement of Niagara Mohawk's suit and the proposed pilot agreement with PSEG takes the Town out from under the threat of significant refunds in back taxes to ease the impact of tax base reduction on our community thanks to Michael Tucker and Joe Richardson who are our IDA members who volunteered their time to help negotiate these agreements. The pilot provides for a softened impact to the community via the transition payments which will delay the full effect of a 133 million dollar reduction in town-wide assessed values.

Working closely with the New York State and the Bethlehem Chamber of Commerce we were able to bring \$275,000 in aide to our businesses which were affected by the Delaware Avenue slope failure. The Town also received \$443,000 for unbudgeted cost. That was the cost for our Police Department the overtime. Thanks to the financial assistance from the State, we have been made whole due to the impacts of this landslide. All the remediation work was completed and we are back to business as usual.

Highlights in 2001 continue, the projected increase assumed that the effective date for our new census figure is as of the beginning of the year. If the new count does not apply to our sales tax distributions until the second quarter of 2001, then the Town's projected revenue will drop by about \$240,000. The \$970,000 increase also assumes that the regional economy is unaffected by the effects from the September 11th attack on the World Trade Center.

The settlement of our Clapper Road water plant suit including plans to achieve full production level has provided \$550,000 to cover legal costs associated with this suit. Funds were also provided to remedy the plant production and to generate the 6 million gallons a day that the plant was designed to yield.

Continued progress with our economic development efforts. The IDA has certainly had a very active year, most notably with the PSEG project. They have also assisted MALM Realty, Bruno Machinery and just this month have approved a refinancing to help the Good Samaritan Lutheran Home. They also are working to secure control of parcels for development in suitable areas of town. Our goal is to balance economic growth while complimenting the small town charm of our community.

We have recently adopted the parkland set aside law to make sure our recreational facilities keep pace with residential growth. This recently enacted parkland will require new developments to provide recreational areas or the money to fund additional park facilities.

2002 – it's about maintaining a firm foundation. Two significant law suits behind us, the resolution of Niagara Mohawk assessment challenge and Clapper Road water plant action have removed significant uncertainties from our immediate horizon. We have a strong financial position thanks to a lengthy period of sustained economic growth, responsible spending and conservative budgets, a larger share of the sales tax pie.

Our water and sewer funds gradually improving. The water and sewer funds have struggled due to both aging infrastructure, fluctuating water rent collections and the cumulative effects of the Clapper Road litigation. Although plans are in place to improve the strength of these funds, it will likely require a period of several years before all of the funds are back to an ideal financial position.

In 2002 planning for the future, we have a direction for our future, marketing our community as an attractive location for new business and as a desirable place to live in as well. The 4 corners improvement effort is underway thanks to combined efforts from both public and private sources. On the private side, the construction going on right now at Gayle Sundling's property which is the former location of the Delmar Bootery and the barber shop is certainly an exciting step toward this goal. Also, the IDA is currently seeking an Economic Development Specialist to actively promote our Town and help bring additional commercial growth to our tax base.

Improving services to residents through the efficient use of technology. Each year we have seen an increasing use of technology within our Town departments to help our employees provide better service to the community. We'll continue to expand our use of technology with the ultimate goal of bringing web based services to all our residents.

Enhancing the safety of our residents with awareness campaigns and additional sidewalks, paths and trails. We are grateful to the Selkirk Cogen for their recent installation of flashing school zone signals by the middle school and St. Thomas. Also the crosswalk markers installed by the Town are helping to raise driver awareness of the requirements to yield to pedestrians. We also owe a special thanks to our Citizens for Pedestrian Safety, headed up by Fran Stevens, and just today at noon time, we went to the crosswalk at the post office for everyone to

observe whether the people in the cars and the pedestrian attempting to cross each are paying attention to the other. Both have equal responsibility – pedestrians and passengers. So, we are hoping to at least get through the crosswalk education enforcement.

In the face of uncertainty, the September 11th attack on the World Trade Center will have lasting impacts on our nation and on our community. The Town will continue to plan for our future despite the uncertainty we all feel after the World Trade Center attack. The economy was showing signs that it was approaching recession even before this event but now the majority of these economists believe that we cannot avoid it. The new question is not when will it arrive but rather how long it will last and how deep will it be. And, for the Town's general fund in particular, what impact will be felt in the sales tax and mortgage tax revenues which comprise about 73 percent of budgeted revenues. Our Town taxes have been kept at low levels and we have benefited from economically dependent revenues. Can we continue to rely on these types of revenues is the real question. Strategies when dependent on fluctuating revenues, take the long term view and plan for tomorrow, meet current operating needs first, fund reserves as able, minimize debt as a funding source, draw on reserves if available. Being dependent on economically driven revenue is nothing new to the Town. This perhaps temporary gain in sales tax monies is similar to the situation we were in when the additional 1 percent sales tax was first added late in 1992. It was then, as it is now, subject to recurring approval by the County Legislature. Given the supposed temporary nature of that tax, the Board has chosen to address the additional tax dollars as a source for needed maintenance projects that have previously been deferred. In 1991 and in 1992, the Town's finances were strained. Salaries were frozen. There had even been a 6 month delay in providing the usual annual raise for Town employees. Often in government, there can, there has been an attitude if the money is there, let's spend it now and add positions and provide substantial raises, the future is someone else's concern. That is not and will not be something that our Bethlehem residents will see from their local elected officials. We care about the here and now. We recognize we have a responsibility to the future because decisions made today have an impact on our tomorrow.

We are seeing the yellow light flashing. Our finances are strong but fiscal pressures are at our door and threaten the firm foundation we are on. We desire to maintain the stability the Town residents have come to expect. Given the potential for recessionary impacts, we must maintain a prudent course. It only took about 7 years of normal budgetary growth until the 1 percent sales tax monies were needed to fund current operations and no longer are available for projects. The increase from census in providing the Town with similar increase in revenue. How far can we stretch this benefit during a recession. In slow economies these dollars can drop quickly. Even with only a 5 percent reduction in sales tax collection, that means a drop of over \$400,000 per year. Even a strong fund can't absorb losses like that repeatedly.

Despite the significant drop in assessed values from the Ni Mo plant, Town-wide rates will stay at the 2001 level even though the resulting tax collections will drop. The general and highway fund have been expecting the impacts of the utility assessment reduction and have braced themselves to absorb the impact without passing a significant increase to taxpayers. The water and sewer tax rates will not change. The usage charge will increase by about 3 percent. Water and Sewer Funds are not impacted by the Ni Mo issue and will not see a change in tax rates, however, there will be modest increase in the uses charges to cover operational needs largely driven by the regulatory changes.

The general fund proposes to transfer \$270,000 to the Highway Fund. This shifts sales tax money to Highway Fund to compensate for the \$270,000 drop in tax collections. Net impact to the Highway Fund revenues is a reduction of \$270,000 due to the drop in assessed value from Niagara Mohawk. The transfer shares the benefit of the increase in sales tax monies due to the higher census figure and recognizes there isn't an additional cost to maintain our Town's highways and

sidewalks from our increased population. The Town has gained about 3750 residents between 1990 and the year 2000.

The 2002 budget, all funds have presented balanced budgets, revenues equal expenditures without the use of fund balance. This is the first time in many years that all funds have presented balanced budgets. Other years had anticipated the use of prior year surpluses to help fund expenditures. This won't be necessary in the 2002 budget as it is expected the revenues will fully cover our planned expenditures. Our budget includes a 3 percent raise for all employees. One of the Town's goals is to balance the desire to be a competitive employer while still paying compensation reasonable in the eyes of all of our taxpayers.

The contracts for our police and telecommunicators unions are up at the end of this year. We are about to begin negotiations and hope to reach a reasonable agreement before the contracts expire.

This budget provides for 3 and ½ new employees in the Department of Public Works. Staffing in departments will generally remain at their current level except for the Public Works which has requested 3 full time, 1 part time.

Fiscal issues that we will have to watch closely, workers comp rates have soared, projected costs are up 38 percent, yielding an additional \$89,000 in cost. Workers comp and retirement system plan have had similar market forces working against them. As interest rates have fallen, an underlying plan assets have had considerable declines in value as per the stock market's performance over the last year. Plans have been forced to raise the participant contributions to make up the drop in investment earnings.

The base plan in our health insurance is up about 6 percent in 2002. This translates into \$100,000 of higher benefit costs for our active employees. Total fringe benefits, our budget is to rise \$293,000 next year, up 14.1 percent. These costs are largely driven by external forces which make them more difficult for the Town to control. Property and liability coverage markets are tightening. This trend is also a reflection of the insurance industry similar experience with their underlying investment portfolios declining in value.

The Town's lose experience has been relatively normal and not a significant factor driving the increase. Overall expenditures excluding the \$270,000 transfer to the Highway Fund are budgeted to rise 4.7 percent. Cost containment measure must continue to be utilized and we certainly will seek to continue even more efficient ways to operate local government. Increase in fringe benefits account for the bulk of the increase which otherwise would be at or below inflation. One example of trying to control our operating cost with street lighting and utility tariff audit which identified ways to save our cost going forward and enable the \$186,000 refund for tariff overcharges spanning a several year period. Our new finance and purchasing package has created efficiencies both in finance department and other departments using the software. Operations have been streamlined through the sharing of data between multiple departments. Additional technology applications are slated for the year 2002. The Highway and Public Works for the processing of service requests and the resulting work orders and for our Building Department to automate their code enforcement efforts.

The good news – number 1 is it's almost over – the good news is no change in property taxes. There is a slight increase in water and sewer usage charges. The Town continues to maintain reserves to enable the funding of needed capital projects – radio communications, recreation projects, sidewalks and technology upgrades. Taxes are still lower today than they were in 1994. Tax bill comparison for a \$130,000 property – although the nominal dollar difference is only \$5.69 lower, this doesn't take any form of inflation into account. If the level of taxes in 1994 rose a mere 2 percent per year through 2002, the taxes would be \$483.15. Compare this to the \$406.67 in actual proposed taxes and it's easy to see the benefit to our taxpayers from the financial course utilized by the Town. Note that this

chart excludes the Albany County taxes and special district tax. This format is consistent with comparisons presented in prior years using the impact of a \$130,000 home.

The Supervisor said the budget workshop is being scheduled for Wednesday, October 10, 2001 from 7:30 a.m. to 9:30 a.m. She said if necessary there will be a second workshop on Thursday, October 18, 2001 at 7:30 to 9:30 a.m. The public hearing on the budget will be held on Wednesday, October 24, 2001 at 7:30 p.m. Copies of the budget are available for public inspection in the Town Clerk's office and at the Bethlehem Library. She noted the reason for the change from evening to morning was for the last 8 years, that she knows of, there have been 2 residents in attendance. She said they are hoping that maybe going to early morning, people may stop by on the way to work or maybe it is a better time for people to come out than to try and come out in the evening.

Councilman Davis noted if the Board members have questions, they may request the attendance of department heads. Supervisor Fuller said that was correct. She said the work sessions are really for the Board members to meet with the department heads. She noted all are invited to attend.

The next item was a request from Engineering Services Administrator, Michael Cirillo, for approval of construction of shed on easement at 19 Clinton Way, Slingerlands. Mr. Mark Sanza was in attendance if there were any questions. Supervisor Fuller noted his letter was very well stated and asked if there were any questions. There were none.

The motion was made by Ms. Burns and seconded by Mr. Lenhardt to approve construction of a shed on the easement at 19 Clinton Way, Slingerlands as requested by Mr. Mark Sanza and recommended by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

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

The following item was a request from Michael Cirillo, Engineering Services Administrator, for acceptance of deeds for John Street, Selkirk, for drainage easement purposes.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve the acceptance of deeds from Mr. and Mrs. Roy Ruske, 19 John Street; Mr. Angelo Micozzi, 23 John Street; Mr. and Mrs. Brent Hummel, 27 John Street; and Mr. and Mrs. Frederick Grober, 15 John Street, Selkirk for drainage easements along the rear of the premises listed and as requested by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

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

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

The motion was made by Ms. Burns and seconded by Mr. Lenhardt to approve the appointment of seasonal personnel as requested by Nan Lanahan, Administrator, Parks and Recreation Department as listed in her Memorandum

dated September 26, 2001 at the titles and salaries indicated. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The next item was a recommendation from Planning Board Chairman, Douglas Hasbrouck, for parkland referral for Miltowne Plaza Subdivision. Supervisor Fuller noted the letter was forwarded from Mr. Hasbrouck and asked if there were any questions. She said the Planning Board put a lot of effort into trying to make what appeared a difficult question since it was the first parkland issue before them and she thought it was resolved fairly, 50 percent property and 50 percent cash.

After lengthy discussion, the Board proceeded to review the original recommendation of the Planning Department, along with the Memorandum from the Planning Board Chairman. Concern was expressed regarding the standards and the proposal as brought before the Board. Mention was made that legal advice was sought for this particular proposal. Mr. Lipnicky, Town Planner, noted there has been a thought of developing a greenway along the Dowerskill. Developments have been turning over easements for lands along the Dowerskill where these other developments have access to the Dowerskill. Thus, this proposal helps extend the greenway area further along. Question was raised if the developer was going to build the trail. Mr. Lipnicky said he was not.

Further, questions were asked regarding the Parks and Recreation Department's interest in this land. It was mentioned that the Parks office was involved with the discussion with the Planning Board.

Town Attorney Alessi noted there was a trail system in mind, as the Supervisor said there is a beginning and an end, the Town thinks that is of value. He said there is a piece in the middle that is missing and this property contributes to that section. Mr. Lipnicky said this is a part of it. Mr. Alessi said when this came up on the agenda, the Planning Board's judgment was that this was important to make this come to fruition, although it was not the final piece. Mr. Lipnicky agreed. Mr. Alessi said the law was reviewed and the question whether land and money could be combined was a question that was not answered. He said it was typical of most laws, there was an interpretation that needed to be given to the law as to whether it was legal to do that. Mr. Alessi said there was no precedent.

Discussion ensued with regard to that fact that this was arbitrary and not appropriate. A 50/50 split was not what the regulation intended to propose and this was not an acceptable proposal. The methodology was used and the recommendation of the Planning Board was give with the developer proposing something different. It was mentioned that there was no rationale stated for the Planning Board action. Positive information was given regarding a trail corridor being constructed and it would be an asset but it was mentioned that there is a need for fairness.

Town Attorney Alessi clarified the options available to the Board – deny the application and refer it back to the Planning Board with reasons; hold the application at the Town Board and come up with a number; and of course, the third option was to table it and bring it on for another meeting.

The developer's realtor addressed the proposal and the length of time this has been discussed with the Planning Department and the Planning Board. He gave reasons for the recommendation from the Planning Board and the fact that they felt it was reasonable. He mentioned the fact that the discussion involved the possible future cross-town connector road. This road was tentatively sketched into the plans for the development after a redrawing of the layout for the development. Note was

made that this developer has been working for years with the Town regarding this proposed development.

Supervisor Fuller said she would entertain whatever the Board wished to do. She said she began by saying this was a fair proposal because she has watched the Town develop this trail and this piece became important. She said her first reaction to the trail was – why do we need this? And, then she said it was explained that this trail idea was in the works. She said she could agree with the concerns.

The motion was made by Mrs. Davis and seconded by Ms. Burns to approve the original recommendation of the Planning Department for \$91,450 in fees and an estimated 1.2 acres of land for the potential trail for the parkland in lieu of fees for Miltowne Plaza Subdivision. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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Question was raised as to where this leaves the Town. Town Attorney Alessi said the decision is final on this issue. He said there is no more negotiation, debate, etc. He said it will go back to the Planning Board for certain things but this will not be an issue.

The following item was a request from Town Clerk, Kathleen A. Newkirk, regarding approval of compensation to the Election Inspectors for the Primary Election held September 11, 2001.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve \$25 per Election Inspector as compensation for Primary Election Day, September 11, 2001. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The next item was to approve the Town Board minutes of August 22, 2001.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the Town Board minutes of August 22, 2001 as submitted. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The Supervisor asked if anyone wished to address the Board. Councilman Burns addressed the issue of the televising of the Board meetings. She said she contacted TV-18 and was told they are interviewing personnel and will hopefully have someone at the next meeting. Supervisor Fuller noted the gentleman who did the taping for the Library channel did send an email out to let everyone know that he was leaving the Library.

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The Supervisor asked for a motion to meet in Executive Session to discuss a personnel matter.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve meeting in Executive Session to discuss a personnel matter. The motion was passed by the following vote:

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

The Supervisor reconvened the regular Town Board meeting following the close of the Executive Session. There was no action taken at the Executive Session.

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The Supervisor next asked for a motion to adjourn to Executive Session to discuss pending litigation.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve meeting in Executive Session to discuss pending litigation following the close of the regular Town Board meeting:

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

The motion was made by Mrs. Davis and seconded by Ms. Burns to adjourn the regular Town Board meeting at 9:22 p.m. The motion was passed by the following vote:

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

Town Clerk

EXECUTIVE SESSION

There was no formal action taken at the Executive Session.