

TOWN BOARD
APRIL 11, 2001

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

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

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Supervisor Fuller welcomed everyone to the meeting and asked them to join the Board in the pledge of allegiance.

The first item was a request from Jeffrey Lipnicky, Town Planner, to accept the DEIS Draft Resolution for Nigro Commercial Development – Rte. 9W and to set a SEQR public hearing for May 9, 2001 at 7:30 p.m. Could advertise on April 25, 2001. Supervisor Fuller said Mr. Palumbo will do a presentation in regard to the Nigro Commercial Development on Route 9W, Glenmont since they first entered the Town of Bethlehem back in December of 1999. She said most of this has been before the Planning Board but this is the first time in a long time this information has been given to the Town Board.

Mr. Palumbo introduced those in attendance from Nigro and the consultants. He said the process has been ongoing, lengthy and in depth. He said there are many changes that have occurred and not really significant changes in regard to the overall magnitude of the project, more so with some of the fine tuning and detailing that has gone on. He said the traffic study had to be completed to show how it will work with the off site highway system and the improvements that were needed. He said in general the project has stayed relatively the same.

Mr. Palumbo said the project has about 357,000 square feet and consists of a Home Depot at about 116,000 square feet; a proposed fast food which presently is planned to be a Wendy's store; and a family style restaurant proposed to be an Applebee's restaurant. He said the largest building onsite is the proposed Walmart and that is approximately 206,000 square feet with the garden center and other features. He said it is a super center – a department store and a grocery store in one. He said they have shown an approximately 3,200 square foot bank on that property and presently that is proposed to be a Charter One.

Mr. Palumbo said the main access to the site comes in right at the central location with a traffic signal installed. He said the traffic signal at Bender Lane will be improved and a third lane added throughout the entire stretch of the off site highway. He said there will be improvements made also at the Feura Bush Road and Route 9W/Glenmont Road intersection with the addition of 2 turn lanes.

Mr. Palumbo said one of the changes that has occurred as they went through with the Planning Board is the increase of the front buffer area that is there before you get to the parking. He mentioned the Route 9W corridor study which tried to develop some standards, guidelines in terms of how development along this stretch of 9W might take place. He said one recommendation was that no parking should start within 80 feet of the center line of the road. He said in most cases they are double that. He said the landscape area will be a combination of berms, some wetland mitigation areas, so there will be a very natural flavor to the screening area. He said they wanted to increase that because they felt they could get better greenscape in a larger area there. He said there are some natural features on site that they had to pay good respect to, noting one was the large wetland area, the

ravine area and they are working with the Corps of Engineers to do the appropriate mitigation.

Mr. Palumbo said to turn this back to the DEIS, they have done multiple studies and drafts of the study to try to hone in by working with the Planning Board and the reviewing consultants on this. He said they have done an extensive traffic study that studied over 16 intersections in the Town at multiple times. He said they think the overall improvements to the roadway system will be benefit the flow of traffic.

Mr. Palumbo exhibited the drawings showing elevations of the buildings. He indicated the facades have been changed to meet specifications for this area. He noted the bright orange of the Home Depot has been lessened which is not part of the normal package. He noted Mr. Nigro has been discussing with the tenants, including Walmart, to bring more vertical definition of the building, break down the tone on the building and noted this is becoming more of a standard package.

Mr. Palumbo explained they have done an extensive visual analysis and air quality analysis along with the noise analysis. He said they have done an analysis of some of the impacts on the school and that is included in the report. He said they are looking for the Town Board's approval based on the Planning Board recommendation that this document be put forward for its public review/comment period. He said they will have comments, they are sure. He said they believe they have addressed all the questions that were in the scope and they believe the Planning Board also was aware of this and referred this back to the Town Board. He offered to answer any questions.

Questions were raised by the Town Board and information given regarding: information about the transportation network including additional traffic lanes; pedestrian traffic and safety; improvements being made regarding the mitigation measures; safety issues; potential adverse impacts; construction of additional Walmart stores in area; mitigation and green space areas under community character; parking areas; landscaping of the project and buffer area; lighting of the project area; possibility of exit road onto Route 32; hours of operation and other areas included in super Walmart; other stores to be located in the center; project alternatives; project goals; school proximity and plans; Bender Lane proposals; possible relocation of school; tire and lube area of Walmart's; security issues; and ingress/egress issues.

Supervisor Fuller noted the purpose of this meeting was for the Town Board to make a decision on whether the DEIS is complete to go out for public review. She said she knows the public is anxious to be able to take a look at this whole process. Give and take on the proposal will be done at the public hearing and she noted there is a 40 day written comment period. Questions and comments were given by the audience regarding the microphones being fixed; address Bender Lane more in detail; school bus exit and entrance; access to the documents; size of project and a 2 lane highway; widening of roadway and improvement of Bender Lane; improvements at Feura Bush Road and Route 9W intersection; how the name was chosen for this project; the exhibited plan being the one shown at the Planning Board meeting; the increase in traffic on Bender Lane; planting plan detail be expanded; location of buildings on parcel; and the level of service on roads. Comment was made that there is a shopping desert for 13 miles to the south of this proposed project.

Supervisor Fuller said there will be copies available on loan. She said she did not know how many additional copies will be coming in but there will be a copy for the Town Clerk's office and the Library. She said she will loan her own personal copy but the person will have to be sure she gets it back.

Supervisor Fuller asked Planning Board Chairman, Douglas Hasbrouck, to give a brief overview of the number of meetings that this item was discussed. Mr. Hasbrouck said he has been on the Board for 10 years and never spoke before the

Town Board. He thought it helpful to go through the process for those present. He said the project came to the Planning Board in December of 1999 from the Town Board as a proposal. He said this site is a Planned Commercial District and, therefore, the Town Board is in charge of the project. He said it is different than a site plan approval process. He said in this instance, the Planning Board is a recommending body and the Town Board takes action. He said they do not take any final action. The Town Board requested the Planning Board review this proposal, according to Mr. Hasbrouck, and forward a recommendation on the State Environmental Quality Review regulations. He said the SEQR proceedings allow 2 options for review – one look on the scale of the project and the impact on Route 9W that this was going to require or everyone would expect a draft environmental impact statement which is a more detailed review that SEQR requires. He said they recommended that the Town Board declare a positive declaration which is one procedure that initiates SEQR requiring that the applicant prepare a draft environmental impact statement. He said that happened in early 2000 and that process was adopted by the Town Board and required it to be prepared. He said they started the review immediately and aspects that were reviewed are revealed in this discussion. The project has been on the Planning Board agenda 16 times over the past year, Mr. Hasbrouck noted.

Mr. Hasbrouck noted they realized they did not have the expertise to review all of this information nor did the professional staff have the expertise. He said they voted and recommended that the Town Board hire a couple of consultants. The hiring of Vollmer Associates and Malcolm Pirnie both well established professional firms that do this kind of review. He said they have been with the Planning Board since last summer. He said the Planning Board feels this document is now at a point of being ready for public review as required by SEQR laws.

Mr. Hasbrouck said if the Town Board adopts the Planning Board recommendation and accepts this for public review, this is a draft environmental impact statement by definition. He said this goes to a public comment period which lasts a prescribed period of time, requires a public hearing which he thinks will be held May 9, 2001, noting documents during that time will be available for review. He said good comments will come out of this and they will be compiled, categorized and responded to one way or another. He said at the end of the public comment period, there is a period of 45 days during which the SEQR laws require the Town to prepare a final environmental impact statement.

Mr. Hasbrouck said this was one part of the process. He said there are a lot of things with respect to this project, such as the underground utilities, that are not shown on these plans. He said there are plans in addition to these that show the other necessary items – water lines, sewer lines, power lines, storm water handling – which will be available for review. He said this has been looked at as a concept but not with the details of landscaping. He said the Building Project review will be done following the May 9 public hearing. The Planning Board will hold a second public hearing after May 9, indicating it is too early to give a date. He said at some point in time, they will make another recommendation to the Town Board.

Supervisor Fuller thanked Planning Board Chairman Hasbrouck.

Question was raised about tax impacts regarding this proposal and surrounding properties. Supervisor Fuller said it is addressed in regard to the tax impact for the Town. Town Attorney Alessi said there is some analysis of that in the document but SEQR is not the only basis under which you can analyze the information. He said the law is very clear in New York that there is no requirement that there be that type of economic impact analysis in an EIS. He said, however, there is information on that in the DEIS and as the project develops, there may be more information.

Supervisor Fuller said for the item on the agenda, she would like to preface it by reminding all who are in attendance that a public hearing for SEQR is not required. She said the decision was up to the Town Board. She said she is

recommending that a public hearing be held. She said in order to set the public hearing, this must be declared complete. She said the action of the Board is to declare this complete and set the public hearing for May 9, 2001 at 7:30 p.m.

The following resolution was presented for adoption on a motion made by Mrs. Davis and seconded by Mr. Lenhardt:

**State Environmental Quality Review Act
Notice of Completion of Draft EIS
and
Notice of SEQR Public Hearing**

Lead Agency: Town Board
Town of Bethlehem
Address: 445 Delaware Avenue
Delmar, NY 12054

Date: April 11, 2001

This notice is issued pursuant to 6 NYCRR Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

A Draft Environmental Impact Statement (Draft "EIS") has been completed and accepted for the proposed action described below. Comments on the Draft EIS are requested and will be accepted by the contact person until May 21, 2001. A public hearing on the Draft EIS will be held on May 9, 2001 at 7:30 p.m. at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, New York.

Name of Action: Nigro Commercial Development – Rt. 9W
Bethlehem Town Center
Building Project Application – PCD No. 2

SEQRA Status: Type I

Description of Action:

The proposed action involves an application for Building Project Approval in an existing Planned Commercial District. The proposal is to construct a 349,630 square foot shopping center with associated parking lots. The center would consist of five free-standing structures housing a discount superstore, home improvement center, restaurant, fast food restaurant and bank. Project acreage equals 75.78 acres, of which a 44.5 +/- acres will be developed. The project concept plan indicates access would come from two driveways along U.S. Route 9W and an additional driveway along Bender Lane (a Town Street).

Location: West side of US Route 9W between Bender Lane and Route 32, in the Town of Bethlehem, Albany County, New York.

Potential Environmental Impacts: Traffic, slope stability, grading, drainage, utilities, erosion and sedimentation, archaeological and historic resources, wetlands, aesthetic and visual resources, community and neighborhood character.

A Copy of the Draft EIS may be obtained from:

Contact Person: Jeffrey Lipnicky, AICP
Town Planner
Address: Planning Department
Bethlehem Town Hall
445 Delaware Avenue, Room 204
Delmar, NY 12054

Telephone Number: (518) 439-4955, ext. 159

A Copy of the Draft EIS is on File for Public Inspection During Normal Business Hours at the Following Locations:

Bethlehem Public Library
Office
451 Delaware Avenue
Delmar, NY 12054

Town Planning Department
Bethlehem Town Hall
445 Delaware Avenue

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

Delmar, NY 12054

Town Clerk's Office
Bethlehem Town Hall
445 Delaware Avenue
Delmar, NY 12054

A Copy of this Notice and the Draft EIS Sent to:

Mr. Michael Higgins, NYS Department of Environmental Conservation, Region 4,
1150 North Westcott Road, Schenectady, NY 12306-2014

Mr. Jack Nasca, NYS Department of Environmental Conservation, Environmental
Permits, 50 Wolf Road, Albany, New York 12233-1750

Hon. Sheila Fuller, Town Supervisor, Town of Bethlehem, 445 Delaware Avenue
Delmar, NY 12054

Town Board, Town of Bethlehem, 445 Delaware Avenue, Delmar, NY 12054

Planning Board, Town of Bethlehem, 445 Delaware Avenue, Delmar, NY 12054

Mr. John J. Nigro, The Nigro Companies, 20 Corporate Woods Boulevard, Albany,
NY 12211

Mr. Kevin J. Novak, NYS Department of Transportation, Region 1, 84 Holland
Avenue, Albany, NY 12208

Mr. Stephen S. Lukowski, P.E., Albany County Health Department, Division of
Environmental Services, 175 Green Street, P.O. Box 678, Albany, NY 12201

Ms. Heidi Firstencel, U.S. Army Corps of Engineers, Albany Field Office, P.O.
Box 209, Lansingburg Station, Troy, NY 12182

Mr. Gregg Sagendorph, Superintendent of Highways, Town of Bethlehem, 445
Delaware Avenue, Delmar, NY 12054

Mr. Bruce Secor, P.E., Commissioner of Public works, Town of Bethlehem, 445
Delaware Avenue, Delmar, NY 12054

Mr. Kevin Shea, Building Inspector, Town of Bethlehem, 445 Delaware Avenue,
Delmar, NY 12054

Mr. Donald R. Odell, Albany County Planning Board, 112 State Street, Room
1006, Albany, NY 12207-2021

Mr. John Poorman, Capital District Transportation Committee, 5 Computer Drive
West, Albany, NY 12205-1606

Ms. Ruth L. Pierpont, NYS Office of Parks, Recreation and Historic Preservation,
Historic Preservation Field Services Bureau, Peebles Island, P.O. Box 189,
Waterford, NY 12188-0189

A Copy of the Notice Only Sent to:

Environmental Notice Bulletin, 6 Sevilla Drive, Clifton Park, NY 12065-5013

The motion was passed by the following vote:

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

Noes: None.

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Mr. Jeffrey Lipnicky, Town Planner, commented that the resolution sets the public comment period through May 21 and that means the written comment will be accepted between April 12 and May 21, 2001. Supervisor Fuller noted this a 40 day period. Town Attorney Alessi suggested that Mr. Lipnicky identify more clearly where the EIS copies will be located for public access in the notice. Mr. Lipnicky noted the copies will be available for review at the Town Clerk's Office, Planning Department and Library. Request was made by a resident to make one available at the Glenmont Grade School. Town Attorney Alessi cautioned the public that one of the reasons why they try to control the access to the document is there has been a lot of experience in New York State on this since 1976, sometimes people inadvertently pull out sections of the document so that when the next person comes, they do not get to see a part. He said if anyone is being exacting in their review, come to review the official document which is on file at one of the places where the access is a little more controlled.

Supervisor Fuller noted there will be copies available at the Highway Superintendent's office and the Engineering Department. She said the official copy is the Town Clerk's copy and will not be out on loan.

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

Supervisor Fuller thanked everyone. Mr. Nigro thanked the Board.

The next item was a request from Comptroller, Judith Kehoe, for approval to participate in a settlement agreement with Niagara Mohawk on street lights charge refunds. Supervisor Fuller noted the representative was in attendance. Question was raised about the future billing and if procedures will change. Comptroller Kehoe said the inventory of the revised list will be corrected and there will be slight changes going forward. There were changes in some of the billed items, she noted. Supervisor Fuller noted the expertise on the cost control fee is about \$25,000. She also asked the representative if all of the other municipalities have accepted this agreement. The representative noted there are 2 who have not signed this, with the other 16 already approved for signature. He said there has not been any rejection of this agreement. Supervisor Fuller said she thought everyone had to agree by the April 12th deadline. The representative noted there was a problem with one of the agendas and being able to get it approved. He said they anticipate having all of them in with the exception of the one, noting it will delay this another month. A check will be coming within 30 days following the meeting, according to the representative.

The motion was made by Ms. Burns and seconded by Mrs. Davis to approve the settlement agreement and release with Niagara Mohawk on street lights charge refunds in the amount of \$186,022 and a credit of \$17,000 toward the April billing. 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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Supervisor Fuller thanked the representative.

The following item was a request from Town Planner, Jeffrey Lipnicky, to amend sections of the Town Code related to off street parking. Could set public hearing for May 9, 2001 at 9:00 p.m. and advertise on April 25, 2001. Supervisor Fuller noted this was presented by the Four Corners group and Chamber of Commerce representatives, at a meeting last March. She said they addressed the real concern of the lack of parking at the Four Corners and they suggested the idea of shared parking. She said the Board also received a copy of a letter from Mr. Steven Bolduc, Keystone Builders, which indicates he has gone to each of the business owners in the immediate facility. She said the only one that did not sign on at the time was Mr. Masiti from I Love Books.

Town Planner Lipnicky said basically what they tried to do with some of the concerns about parking at the Four Corners was that the older buildings that are in the vicinity of the Four Corners do not have enough room on site to provide parking. He said the whole idea of trying to provide joint parking facilities is that it can be shared by a number of buildings. He said the current code is rather silent on the issue of whether off-site parking can be utilized to satisfy the requirements, noting interpretation could be stretched to allow for this. The second issue, according to Mr. Lipnicky, is the fact that there are older buildings in this area and there is not enough space on many of the lots to meet the requirements for parking as currently under the Code.

Mr. Lipnicky said they took a look at the Code to see how they could potentially deal with some of these issues. He said the Code itself contains a section that exempts buildings from the parking requirements that were built before 1965 provided the buildings are not rebuilt. He also noted the problem is interpretation with regard to rebuilt and what that definition is. He said one of the things they attempted to do was to provide a definition of rebuilt so that that section

of the Code can be interpreted in such a way that remodeling would not then kick in the parking requirements.

Mr. Lipnicky said the second aspect of this was to try and provide a mechanism where parking could be provided off-site. He said they came up with what they call a joint parking lot and basically this lot can be utilized to satisfy parking requirements of a structure on one lot and parking on a second lot. He said they provided a definition for that as well. He said they threw in a couple of caveats in this because they do not want someone to say their parking is going to come from that lot 4 miles away from the structure. He said there has to be some reasonable ness as to how far away the lot is located and realistically be used by patrons. He said there is a distance limit of 600 feet. He said the second concern was that they do not get into a situation where building A, B, C, D, E, and F are all claiming the same parking space. He said they also put in a requirement that those spaces basically have to be dedicated to that particular use and be available for the life of that use.

Mr. Lipnicky noted in terms of the 600 foot requirement and the requirement of being available for the life of the use, for buildings again that existed prior to 1965, these things would not apply. He said those buildings do not have parking requirements under the way this is proposed. He said the joint parking areas would be allowed in the C and CC Commercial Zoning Districts and in order to build a joint parking lot or a public parking lot it would require Planning Board review. He said presently any proposal to build a parking lot requires Planning Board review in any event.

Supervisor Fuller thanked Mr. Lipnicky. Comment was made that this proposal is relevant to the Four Corners overlay district which the merchants requested, but this applies beyond the Four Corners and can be applied to other hamlets within the Town. Mr. Lipnicky indicated this was correct. Comment was reiterated that this was for the entire Town, not just for the Four Corners area.

Town Attorney Alessi said he felt everyone did a very good job with this because this was not the easiest proposal to accomplish. He said this is a very good job for including all the points that were necessary in terms of the law.

The motion was made by Mrs. Davis and seconded by Ms. Burns to approve setting a public hearing for May 9, 2001 at 9:00 p.m. to consider a proposed Local Law relating to off-street parking requirements under the Bethlehem Town Code as recommended by Mr. Lipnicky, Town Planner. 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 Lt. Beebe, Bethlehem Police Department, for proposed amendment to the Bethlehem Town Code, Vehicle and Traffic, Prohibited Parking at All Times on Groesbeck Place, Delmar. Could advertise April 25, 2001 and hold public hearing May 9, 2001 at 9:15 p.m.

The motion was made by Mrs. Davis and seconded by Ms. Burns to approve setting a public hearing for May 9, 2001 at 9:15 p.m. to consider a proposed Local Law pertaining to Prohibited Parking at All Times on Groesbeck Place, Delmar, New York as requested by Lt. Beebe, Bethlehem Police Department. 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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Questions were raised if this was due to the Elsmere School and getting the school buses through this area and where this request originated. Supervisor Fuller said she believed it came from some of the residents that were concerned down near the Saratoga Shoe Depot right at the corner and the buses in that area, indicating it is about a 2 block area.

The following item was a request from Lt. Beebe, Bethlehem Police Department, for proposed amendment to Bethlehem Town Code, Vehicle and Traffic, Stop Intersections at Hamilton Lane and Hannay Lane, Glenmont. Could advertise April 25, 2001 and hold public hearing May 9, 2001 at 9:30 p.m. Supervisor Fuller said this came from calls to the Police Department.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve setting a public hearing for May 9, 2001 at 9:30 p.m. to consider proposed Local Law relating to Stop Intersections at Hamilton Lane and Hannay Lane, Glenmont, as required by Lt. Beebe, Bethlehem Police Department. 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 Department of Public Works, Engineering Division, Mr. Terrence Ritz, for approval to go to bid for Iron Castings and Precast Reinforced Concrete Manhole Sections. Could advertise on April 18, 2001 and open bids on May 1, 2001 at 3:20 and 3:25 p.m. respectively.

The following resolution was offered by Mr. Plummer and seconded by Ms. Burns:

WHEREAS, the Town desires to advertise for bids for the purchase of Iron Castings and Precast Reinforced Concrete Manhole Sections, pursuant to law,
NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 18th day of April, 2001 and that bids be received up to 3:20 and 3:25 p.m. on the 1st day of May, 2001 at which time the bids will be publicly opened and read.

The resolution was adopted 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 Mr. Terrence Ritz, Department of Public Works, Engineering Division, for approval to go to bid for Metal and Plastic Pipe. Could advertise April 18, 2001 and open bids on May 1, 2001 at 3:00, 3:10 and 3:15 p.m. respectively.

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

WHEREAS, the Town desires to advertise for bids for the purchase of Metal and Plastic Pipe, pursuant to law,
NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 18th day of April, 2001 and that bids be received up to 3:00, 3:10 and 3:15 p.m. on the 1st day of May, 2001 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

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

Noes: None.

Absent: None.

The next item was to acknowledge the Annual Report of the Tax Department from Receiver of Taxes, Nancy Mendick. Supervisor Fuller recognized Mrs. Mendick who was in the audience and noted this was a job well done and thanked her.

The following item was to adopt a resolution in opposition to U.S. Environmental Protection Agency use of Town of Bethlehem sites for location of Hudson River dredged Hazardous Substances Spoils. Supervisor Fuller said she was going to move that the resolution be adopted in opposition to the use of Bethlehem sites. She said she has had an anonymous letter and 2 anonymous phone calls and she is aware negotiations are going on but she is not able to be specific as to the sites. She said in fairness to the community, we need to be protected and we need to be out ahead of it.

The following resolution was presented for adoption:

RESOLUTION
TOWN OF BETHLEHEM
TOWN BOARD

OPPOSITION TO UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY USE OF TOWN OF BETHLEHEM SITES FOR LOCATION OF
HUDSON RIVER DREDGED HAZARDOUS SUBSTANCES SPOILS

APRIL 11, 2001

WHEREAS, the United States Environmental Protection Agency (“USEWPA”) has proposed to dredge the Hudson River to remove, among other hazardous substances, polychlorinated biphenyls (“PCBs”); and

WHEREAS, the USEPA has identified several potential sites along the Hudson River on which to dispose of the PCBs and other material resulting from the dredging of the Hudson River (“dredged spoils”); and

WHEREAS, on of the sites identified for disposal and storage of the dredged spoils is within the Town of Bethlehem; and

WHEREAS, the Town of Bethlehem has not been consulted with by the USEPA concerning the suitability or non-suitability of the Bethlehem site or any other site within the Town of Bethlehem for such dredging, disposal and storage; and

WHEREAS, the dredging, disposal and storage process would have numerous, significant adverse impacts on the Town of Bethlehem and its citizens, and would be inconsistent with this Town’s future; and

WHEREAS, the Town is not aware of any studies conducted by the USEPA which show that any area within the Town of Bethlehem is suitable for such dredging, disposal and storage; and

WHEREAS, the Town Board of the Town of Bethlehem is charged with protecting the health, safety and welfare of its citizens;

NOW, THEREFORE, be it resolved that:

1. The Town Board strongly opposes the use of any land, structure or location within the Town of Bethlehem for the dredging, storage, or disposal of any kind of dredged spoils resulting from the USEPA’s proposed dredging project; and

2. The Town Supervisor s hereby authorized to communicate this position of the Town with whomever she deems it advisable to do so, including but not limited to the USEPA, Governor Pataki, and New York State Department of Environmental Conservation Commissioner Crotty.

Councilman Davis thanked the Supervisor for taking a lead on this due to her concern in regard to this matter also. Councilman Plummer divulged for the record that General Electric is a client of his.

Councilman Lenhardt asked if this was a local law. Supervisor Fuller said it was not. Mr. Lenhardt said it is a statement of the Board's position. Supervisor Fuller said it is authorization for her to send a letter off to Ms. Whitman and Governor Pataki and Commissioner Crotty and everyone else she can get to listen.

On a motion by Mrs. Fuller, seconded by Mrs. Davis and a vote of 5 for and 0 against and 0 absent and 0 abstaining, this RESOLUTION was adopted on April 11, 2001.

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Question was asked by a resident if the resolution was passed and if a Federal government condemned the property and used it for this purpose, would the resolution have any affect at all or would the Federal government adoption of a condemnation take precedent. Town Attorney Alessi said he would refer the Federal government to Section 97-2 of the Town Code which in sum and substance, prohibits the dumping of any material that is not generated within the Town so he would be happy to have that discussion with the U.S. Government should it come to be.

Further question was asked in regard to how far out into the Hudson River the Town of Bethlehem extends. Mr. Alessi said the Section 97-2 of our Town Code addresses the disposal of waste that is generated outside of the Town for disposal in the Town and it prohibits that. So, we are covered both ways in the sense that if the Town property does not extend far out into the Hudson -- which he has not looked at but his guess would be that it does not extend that far out there -- that that would be waste generated outside of the Town of Bethlehem and then would fall under the prohibition of Section 97-2.

Question was also asked in regard to sites not being specified or designated and about brown field sites that have been here for many years along the river and whether there has been anything done to attempt to have them cleaned up. Supervisor Fuller said they are owned by individuals and not by the Town. Question was asked if there is any jurisdiction by the Town to force the owners to clean up the brown fields. The resident suggested that be let go and it can be discussed another time.

The following item was a request from David Austin, Administrator, Parks and Recreation Department for approval of appointment of seasonal personnel.

The motion was made by Mr. Lenhardt and seconded by Ms. Burns to approve the appointment of seasonal personnel as requested by David Austin, Administrator, Parks and Recreation Department in his Memorandum dated April 11, 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 to adopt a resolution setting polling locations for the conduct of elections for the year 2001.

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

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

RESOLVED, that in accordance with Election Law, Article 4, Subdivision 4-104, the Town Board of the Town of Bethlehem, hereby designates the following named locations as polling places for any election to be held in the Town of Bethlehem effective May 1, 2001 through April 30, 2002:

<u>District</u>	<u>Polling Location</u>
1	North Bethlehem Fire House
2	Beverwyck 40 Autumn Dr., No. Bethlehem
3	Slingerlands Fire Dept. New Scotland Rd., Slingerlands
4	First United Methodist Church 428 Kenwood Ave., Delmar
5	Elsmere Grade School 247 Delaware Ave., Elsmere
6	Bethlehem Town Hall 445 Delaware Ave., Delmar

<u>District</u>	<u>Polling Location</u>
7	Slingerlands Fire Dept. New Scotland Rd., Slingerlands
8	Bethlehem Town Hall 445 Delaware Ave., Delmar
9	Bethlehem Library 451 Delaware Ave., Delmar
10	First United Methodist Church 428 Kenwood Avenue, Delmar
11	Educational Services 90 Adams Pl., Delmar
* 12	St. Stephens Church Elsmere Ave., Delmar (for year 2001)
13	Elsmere Grade School 247 Delaware Ave., Delmar
14	Parks & Recreation Building 261 Elm Ave., Delmar
15	Bethlehem Town Hall 445 Delaware Ave., Delmar
16	Bethlehem Lutheran Church 85 Elm Ave., Delmar
17	Delmar Fire Dept. Delaware Ave., Delmar
18	Hamagrael School McGuffy Lane, Delmar
19	Bethlehem Central Middle School 332 Kenwood Ave., Delmar
20	St. Stephens Church Elsmere Ave., Delmar
21	Glenmont Grade School Route 9W, Glenmont
22	Selkirk Fire Dept. #2 Glenmont Rd., Glenmont
23	Delmar Fire District Annex Feura Bush Rd., Delmar
24	Selkirk Fire Dept. #2 Glenmont Rd., Glenmont
25	Glenmont Grade School Route 9W, Glenmont
26	Bethlehem Vol. Ambulance Service 1121 Route 9W, Selkirk

- 27 Parks & Recreation Building
261 Elm Ave., Delmar
- 28 Bethlehem Historical Museum
1003 Route 144, Selkirk
- 29 Selkirk Fire Dept. #3
Bridge St., So. Bethlehem
- 30 Selkirk Fire Dept. #1
Maple Ave., Selkirk

The resolution was adopted by the following vote:

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

The next item was to acknowledge receipt of Amendment to Final Plat for The Meadows, Section 2 Subdivision from the Planning Board for information purposes.

The following item was to acknowledge receipt of Amendment of Final Plat for Lauralana Heights, Ext. 1, Sections 2 and 3 from the Planning Board for information purposes.

The next item was to acknowledge receipt of Final Plat Approval for Dominick Rizzo, 74 Oakwood Road, Delmar from the Planning Board for information purposes.

The following item was to acknowledge receipt of SEQR Resolution and Amendments to Final Plat for Union Avenue South, Ext. No. 2 from the Planning Board for information purposes.

The next item was to acknowledge receipt of Final Plat for Dennis O'Shaughnessy, 515 Feura Bush Road from the Planning Board for information purposes.

The following item was to acknowledge receipt of Conditional Approval of Final Plat for the Nolan-Brown Subdivision, Feura Bush Road, Glenmont from the Planning Board for information purposes.

The next item was to acknowledge receipt of Amendment to Final Plat for Feeney/Castronuovo, 350 and 308 Orchard St., Slingerlands from the Planning Board for information purposes.

Supervisor Fuller asked if anyone else wished to address the Board. No one spoke. She thanked everyone for their attendance.

The motion was made by Mrs. Davis and seconded by Ms. Burns to adjourn the regular Town Board meeting at 9:50 p.m. The motion was carried by the following vote:

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

Town Clerk