

TOWN BOARD
AUGUST 11, 1999

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
Robert C. Johnson, Councilman
Susan Burns, Councilman
Kathleen A. Newkirk, Town Clerk
Bernard Kaplowitz, Esq., Town Attorney

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

Adopt resolution
to construct
ice rink
at 900
Delaware
Avenue

The first item was to adopt a Resolution pertaining to Bethlehem Ice Group's proposal to construct an ice rink at 900 Delaware Avenue, Delmar. Supervisor Fuller introduced Mr. Mullen and Mr. Thornton, who have been involved in this proposal. Mr. Mullen gave information relating to the proposed rink and its location on Delaware Avenue. The parcel is 27 acres. The proposal is for a 2 sheet indoor ice skating sports complex along with some other amenities. He said the facility will have about 185 parking spaces. The facility will be approximately 76,000 square feet and be screened by pines from Delaware Avenue.

Mr. Mullen noted Mr. Thornton was instrumental in starting the Bethlehem Hockey League. He said he is the driving force to this proposal and noted there was a group of gentleman who worked to get the funding for this project.

Mr. Mullen said there will be 2 NHL rinks with rooms and concession stand, including first aid and coaches room. He said there will be a pro-shop operated by Hockey Town which has a hockey/sporting goods/skating shop in Latham and on Long Island. He said Hockey Town is referred to by people in the skating world as some of the best experts on sharpening skates.

Mr. Mullen said there will be an arcade for kids in Bethlehem to help keep the facility running. He said one of the things they want to do is provide this as a community facility, as well as, an ice skating facility, as well as, a business.

Above the locker rooms, according to Mr. Mullen, will be a glassed in viewing area that will be warm. He said there is also 2 meeting rooms which will be available to the general public for meetings. He noted one room is large. There will also be an exercise room, Mr. Mullen indicated.

Mr. Mullen said they are in discussions about being one of the 3 participants in co-hosting the New York International Hockey Clubs, International Youth Hockey Tournament which will happen the week of Christmas. He said there will be children from around the world.

Mr. Mullen said they were aware that the Bethlehem Industrial Development Agency offers assistance to businesses and, therefore, they applied to the Agency due to the positive impact this project will have on the community. Supervisor Fuller thanked Mr. Mullen.

Supervisor Fuller said the public approval resolution is before the Board for adoption. She said the IDA and the Town of Bethlehem held a public hearing July 27, 1999. She said Bethlehem Ice Group, LLC is seeking the issuance of Industrial Development Revenue bonds in the amount not to exceed \$4,700,000. She said the project needs to be approved by the Town Board.

COUNCILMAN Burns offered the following resolution, and moved its adoption:

RESOLUTION

RESOLUTION APPROVING THE ISSUANCE OF CERTAIN BONDS BY THE TOWN OF BETHLEHEM INDUSTRIAL DEVELOPMENT AGENCY TO FINANCE A PROJECT FOR BETHLEHEM ICE GROUP, LLC.

WHEREAS, pursuant to Article 18-A of the General Municipal Law of the State of New York and Chapter 582 of the Laws of 1973 of the State of New York (herein collectively called the "Act"), the Town Board of the Town of Bethlehem, County of Albany, New York (the "Town Board") has heretofore appointed the Chairman and members of Town of Bethlehem Industrial Development Agency (the "Agency") and has duly caused to be filed in the office of the Secretary of the State of New York the certificates required by Section 856 of the General Municipal Law of the State of New York; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to issue industrial development revenue bonds to finance the cost of the acquisition, construction, reconstruction and installation of one or more "projects" (as defined in the Act), to acquire, construct, reconstruct and install said projects or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Bethlehem Ice Group, LLC (the "Company") has presented an application (the "Application") to the Agency, a copy of which was presented at this meeting and copies of which are on file at the office of the Agency, requesting that the Agency consider issuing its industrial development revenue bonds in the principal amount of not to exceed \$4,700,000 (the "Bonds") in order to finance all or a portion of the cost of undertaking a project (the "Project") consisting of (A) (1) the acquisition of an approximately thirteen +/- (13 +/-) acre parcel of land (the "Land") located at 900 Delaware Avenue in the Town of Bethlehem, New York; (2) the construction on the Land of a 75,000 square foot ice skating arena (the "Facility") and (3) the acquisition and installation therein and thereon of certain equipment (the "Equipment") (the Land, the Facility and the Equipment are hereinafter collectively referred to as the "Project Facility"); (B) the financing of all or a portion of the costs of the foregoing by the issuance of its recreation facility revenue bonds in one or more issues or series in an aggregate principal amount not to exceed \$4,700,000 (the "Bonds"); (C) the granting of certain "financial assistance" (within the meaning of Section 854 (14) of the Act) with respect to the foregoing, including exemption from certain sales taxes, deed transfer taxes and mortgage recording taxes (collectively with the Bonds, the "Financial Assistance"); and (D) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Town Board has been advised by the Agency that the Agency proposes to issue, subsequent to the adoption of this resolution, its industrial development revenue bonds from time to time in a principal amount sufficient to fund all or a portion of undertaking the Project, together with incidental costs in connection therewith, which principal amount is presently estimated to be in an amount not to exceed \$4,700,000; and

WHEREAS, the Company has requested that interest on the Bonds be treated by the federal government as taxable income for federal income tax purposes pursuant to Section 145 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, pursuant to Section 147(F) of the Code, the issuance of the Bonds shall be approved by this Town Board after the Agency has conducted a public hearing thereon following reasonable public notice; and

WHEREAS, on July 27, 1999, the Agency held a public hearing to consider both the issuance of the proposed Bonds and the nature and location of the proposed Project, and a report of said public hearing has been made available to each member of this Town Board prior to this meeting; and

WHEREAS, the Town Board has received notice from the Town of Bethlehem Planning Board that it has determined that the Project will not have a "significant impact on the environment" within the meaning of Article 8 of the Environmental Conservation Law of the State of New York;

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Bethlehem, New York as follows:

Section 1. The Town Board, as the elected legislative body of Town of Bethlehem, New York, hereby approves the issuance by the Agency of the Bonds the interest of which shall be taxable for federal income tax purposes, provided that the Bonds, and the premium (if any) and interest thereon, shall be special obligations of the Agency and shall never be a debt of the State of New York, Town of Bethlehem, New York or any political subdivision thereof (other than the Agency), and neither the State of New York, Town of Bethlehem, New York nor any political subdivision thereof (other than the Agency) shall be liable thereon.

Section 2. This resolution shall take effect immediately.

The resolution was duly seconded by Councilman Johnson and the resolution was duly adopted by the following vote:

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

Supervisor Fuller thanked Mr. Mullen and Mr. Thornton. Councilman Davis wished them good luck.

Request zone
change Residence
A and AA to
planned commercial
district 1319
New Scotland Road
withdrawn from
agenda by applicant

The next item was a request for zone change from Residence A and AA to Planned Commercial District for premises located at 1319 New Scotland Road (NYS Route 85), Slingerlands. Supervisor Fuller said this item was withdrawn from the agenda by the applicant.

Parks and
Recreation
Seasonal
Personnel

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

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the appointment of seasonal personnel as requested by David Austin, Administrator, Parks & Recreation Department, in his Memorandums dated July 28, 1999 and August 11, 1999 at the titles and salaries indicated. The motion was passed by the following vote:

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

Traffic Safety
Committee to
set Public
Hearing for
Proposed
Stop sign
Gailes Drive at
Daniel Street
and Trumpeter
Place at
Daniel Street

The next item was a request from the Traffic Safety Committee for consideration of a proposed Local Law to amend Vehicle and Traffic, Stop Signs, for installation of stop signs on Gailes Drive at Daniel Street and Trumpeter Place at Daniel Street. Could advertise August 18, 1999 and hold public hearing September 8, 1999 at 7:30 p.m.

The motion was made by Ms. Burns and seconded by Mr. Lenhardt to approve the setting of a public hearing for September 8, 1999 at 7:30 p.m. to consider a proposed local law to amend the Code of the Town of Bethlehem, Vehicle and Traffic, Stop Signs, for installation of stop signs on Gailes Drive at Daniel Street and Trumpeter Place at Daniel Street. The motion was passed by the following vote:

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

Acknowledge receipt
Quarterly Franchise
Fees from
Time Warner
Cable for the
second quarter

The next item was to acknowledge receipt of the Quarterly Franchise Fees from Time Warner Cable for the second quarter of 1999 in the amount of \$49,188.51.

The next item was a recommendation from Michael Cirillo, Engineering Services Administrator, for acceptance of deeds with bonding for PRD Terramere. Supervisor Fuller said these are deeds for highways and easements.

Engineering Services Administrator acceptance of deeds with bonding for Terramere

The motion was made by Mrs. Davis and seconded by Mr. Johnson to approve the acceptance of deeds with bonding for Planned Residence District, Terramere, as recommended by Engineering Services Administrator, Michael Cirillo. The motion was passed by the following vote:

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

The next item was a request from Engineering Services Administrator, Michael Cirillo, for acceptance of a deed conveying lands to the Town of Bethlehem in the Indian Hills Subdivision at the intersection of Russell Road and Mohawk Trail, North Bethlehem.

Engineering Services for acceptance of deed conveying lands to Town of Bethlehem in Indian Hills Subdivision intersection of Russell Road and Mohawk Trail

The motion was made by Mr. Johnson and seconded by Mr. Lenhardt to approve the acceptance of a deed conveying lands to the Town of Bethlehem in the Indian Hills Subdivision at the intersection of Russell Road and Mohawk Trail, North Bethlehem, as recommended by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

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

The following item was a request from Gregg Sagendorph, Highway Superintendent, for approval of disposal of vehicles at auction.

Highway Superintendent approval of disposal of vehicles at auction

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the disposal of vehicles at auction as requested by Highway Superintendent, Gregg Sagendorph, as listed in his Memorandum dated July 30, 1999. The motion passed by the following vote:

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

The following item was a request from Gregg Sagendorph, Highway Superintendent, for approval of installation of a new roof at the Highway Department garage, Elm Avenue East, Selkirk, subject to a permissive referendum, as well as, approval to go to bid for the installation of the new roof. Could advertise August 18, 1999 and open bids on September 7, 1999 at 3:00 p.m.

Highway Superintendent approval of installation of a new roof Highway Department Garage Advertise, go to bid, and permissive referendum with resolution and Public Notice

Supervisor Fuller noted there could be 2 motions, one for the 30 day permissive referendum for the new roof and one for the approval to go to bid.

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 11th day of August 1999, 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 install a new roof on the Highway Department garage in Selkirk, NY; and

WHEREAS, it is estimated that the cost of said work will be approximately \$135,000; 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 the Town Board authorizes the expenditure of the reserve moneys to fund this project up to a maximum amount of \$135,000 in said reserve fund; and

BE IT FURTHER RESOLVED, that the Town Board is authorized to expend from the General Fund Capital Reserve the funds necessary up to \$135,000 in said reserve fund; and

This resolution is subject to a permissive referendum as permitted by law.

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

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

Noes: None.

Absent: None.

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Councilman Burns asked if this was what was expected to cost. Mr. Sagendorph said this is the estimate that was received from a couple vendors. Councilman Burns asked if this was the amount available in the General Fund Capital Reserve account. Comptroller Kehoe said it has been known that this project would need to be done so the reserve was funded anticipating this project several years ago. Mrs. Kehoe said the fund has grown with interest and the balances are sufficient. Councilman Burns thanked Comptroller Kehoe.

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Supervisor Fuller asked for a motion to approve going to bid for the new roof.

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

WHEREAS, the Town desires to advertise for bids for the installation of a new roof at the Highway Department garage located on Elm Avenue East, Selkirk, Town of Bethlehem, 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 August, 1999 and that bids be received up to 3:00 p.m. on the 7th day of September, 1999 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, Mr. Johnson,
Ms. Burns.

Noes: None.

Highway Super-
intendent
approval for
participation
purchase one
truck tractor
jointly purchased
with Public Works
advertise, open bids
and resolution

The next item was a request from Highway Superintendent, Greg Sagendorph, for approval of participation in the purchase of one (1) truck tractor to be jointly purchased with the Department of Public Works, subject to a permissive referendum, as well as, approval to go to bid for the purchase of one (1) truck tractor. Could advertise August 18, 1999 and open bids on September 7, 1999 at 3:30 p.m.

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 11th day of August, 1999, 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 purchase a truck tractor for use by the DPW Sewer, Sanitation and Highway Departments; and

WHEREAS, it is estimated that the cost of said truck will be approximately \$80,000; and

WHEREAS, it is estimated that the proportional cost to the Highway Department will be approximately \$30,000; and

WHEREAS, in recognition of these needs, funds for such purpose are in the Highway Department Equipment Reserve; and

NOW, THEREFORE, BE IT RESOLVED that it is in the public interest to complete this vehicle purchase; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the expenditure of the reserve moneys to fund this portion of the purchase up to a maximum amount of \$30,000; and

BE IT FURTHER RESOLVED, that the Town Comptroller is authorized to expend from the Highway Department Equipment Reserve the funds necessary up to \$30,000 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 Mrs. Davis, was seconded by Mr. Johnson and duly adopted by the following vote:

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

Noes: None.

Absent: None.

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

WHEREAS, the Town desires to advertise for bids for the purchase of one (1) truck tractor for us of the Department of Public Works and Highway Department, 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 August, 1999 and that bids be received up to 3:30 p.m. on the 7th day of September, 1999 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, Mr. Johnson, Ms. Burns.

Noes: None.

The following item was a request from Gregg Sagendorph, Highway Superintendent, for approval of participation in a fall Household Hazardous Waste collection day with the City of Albany at the Rapp Road landfill.

Supervisor Fuller indicated this was done for the first time in 1998. She noted it worked very well. Mr. Sagendorph said there were 40 residents who took advantage of this day. Councilman Davis said this was on top of the spring day. Supervisor Fuller said this would provide an additional day rather than waiting for next spring.

Highway Superintendent approval of participation Household Hazardous Waste Collection day with city of Albany

The motion was made by Mr. Johnson and seconded by Mrs. Davis to approve participation in the fall Household Hazardous Waste collection day with the City of Albany at the Rapp Road landfill on September 18, 1999. The motion was passed by the following vote:

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

Noes: None.

The following item was a request from Bethlehem Business Women's Club for use of the Town Seal, the Memorial Park Monument and the Town of Bethlehem Historical Museum in picture computerized format

Bethlehem Business Women's Club use of Town Seal, the Memorial Park Monument and Bethlehem Historical Museum

for use on a throw for funding raising purposes to support college scholarships for local students and other worthy community causes.

Supervisor Fuller said the Club has been working on this for a number of months. Councilman Davis said she knew the committee had polled the membership of the club and then different organizations in Town were contacted to get input as to which buildings/landmarks in Town people really feel would best be used for this particular throw. She said it is a great idea, noting it promotes our community and pride in our community and is a great way to generate spirit. She said this can be used for the holiday season as a special gift.

Councilman Burns asked if the Board at the Historical Museum was aware of this proposal. Supervisor Fuller said they were. Councilman Burns asked if they had any problem with that. Supervisor Fuller asked Mr. Mathusa to address this question since he is President of the Bethlehem Historical Association. Mr. Mathusa said the Association recommended it be considered and noted they are pleased they have accepted the suggestion.

The motion was made by Mr. Johnson and seconded by Mrs. Davis to approve the use of the Seal, Memorial Park Monument and Historical Museum in computerized picture format by the Bethlehem Business Women's Club. The motion was passed by the following vote:

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

Request for
extension
of time for
CMI due to
pending
litigation

The next item was a request for an extension of time for CMI Senior Housing project due to pending litigation. Supervisor Fuller explained that Mr. Cahill sent a letter of request indicating it has come to his attention that building project approval granted to CMI Senior Housing on March 10, 1999 required construction work to begin within 180 days from the date of approval. He said there are 2 law suits concerning the project and the client is reluctant to proceed with construction until such time as the litigation has been resolved. He requested an extension of the condition which requires construction to commence within 180 days of the approval. He asked that the Board consider an extension which is tied into the resolution and litigation, such as 180 days from the rendering of a final decision which clears the way for construction to begin.

The motion was made by Mr. Johnson and seconded by Mrs. Davis to approve the extension of time to 180 days from the rendering of a final decision which clears the way for construction to begin. The motion was passed by the following vote:

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

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Councilman Burns said she, on record in November of 1998, voted no on the zoning issue and April 1999 voted no on the building project approval and obviously, voted no again on this extension. She said this is to be consistent with her position on this project.

Supervisor Fuller thanked Councilman Burns.

Receiver of
taxes approval
temporary personnel
collection of
school taxes

The next item was a request from Nancy Mendick, Receiver of Taxes and Assessments, for approval of appointment of temporary personnel. Supervisor Fuller said this is to employ 3 individuals at \$8.00 per hour for the collection of school taxes in September.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the appointment of temporary personnel at \$8.00 per hour for the collection of school taxes in September as requested by Receiver of Taxes and Assessments, Nancy Mendick as listed on her

Memorandum dated August 6, 1999. The motion was passed by the following vote:

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

The following item was a recommendation from Special Counsel, Josh Effron, regarding right-of-way acquisition for land at 439 Krumkill Road, North Bethlehem and consideration of adoption of resolution. Supervisor Fuller asked Mr. Cirillo to give the background information on this item. Mr. Cirillo noted the Board had previously approved going forward with the project on Krumkill Road at their meeting held June 10, 1998. He said there was some history on this project due to a sight distance problem. The Engineering Department did a survey on the site, according to Mr. Cirillo, and based on that determination, it was evident that the distances were below the 200 foot recommended sight distance. A proposal was developed to improve this situation and negotiation was begun with the property owner. He said there has not been a settlement reached. Thus, Mr. Cirillo said this is a counter offer and suggested that if this offer is not accepted, the Board approve moving forward to declare eminent domain on the land. Supervisor Fuller asked if there were any questions.

Josh Effron
regarding
Right of way acquisition for land at
439 Krumkill Road
Resolution is
offer in case
settlement is
not accepted

Councilman Johnson asked if the orange stakes that are up now are for the project to proceed. Mr. Cirillo said they put the stakes in to demonstrate or explain the project to the parties involved. He said they were to represent where the maximum cut would be and where the transition would be. Mr. Cirillo indicated this is on a horizontal curve and the house is approximately 4 to 5 feet above the road. He said the embankment creates the problem.

The motion was made by Mr. Johnson and seconded by Mr. Lenhardt to approve the \$3,000 settlement offer with regard to the right-of-way acquisition for 439 Krumkill Road. The motion was passed by the following vote:

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

In the event the settlement is not accepted, Councilman Johnson presented the following Resolution and moved its adoption:

WHEREAS, the Town of Bethlehem Engineering Department has received and reviewed complaints relating to sight distance limitations for vehicle traffic proceeding on Krumkill Road and has investigated and confirmed that there is sight distance limitation in the immediate vicinity of 439 Krumkill Road, and

WHEREAS, new construction along Krumkill Road and intersecting roads has greatly increased traffic volumes along Krumkill Road, and

WHEREAS, the elimination of sight distance limitations for vehicular traffic on Krumkill Road will materially aid the health, safety and well-being of the residents of the Town of Bethlehem; and

WHEREAS, the Engineering Department of the Town of Bethlehem has designated a remedial plan to remove the sight distance limitation in front of 439 Krumkill Road in an economical, cost effective and engineeringly sound manner; and

WHEREAS, it is the policy of the Town of Bethlehem to negotiate the conveyance of interest in real property whenever and wherever possible, recognizing that in some instances it may be necessary to resort to the Town's right to exercise its power of eminent domain to acquire the necessary interests in real property in order to complete the public project; and

WHEREAS, it will be necessary to acquire minimal fee and temporary easements from the owner of 439 Krumkill Road, which said fee and temporary easement are located in the same area already burdened by a permanent easement in favor of the public on Krumkill Road and another permanent easement for sanitary sewer purposes;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Bethlehem does hereby find and determine:

1. That it is necessary to acquire, pursuant to the provisions of Eminent Domain Procedure Law, those interests in real property which are required to eliminate a sight distance limitation for vehicular traffic on Krumkill Road, a Town road, which interests have heretofore not been conveyed to the Town of Bethlehem.
2. That the acquisition of those interests in real property is for the public use, benefit and purpose of the Town of Bethlehem, to wit: the elimination of a sight distance limitation for vehicular traffic on Krumkill Road, a town road which has experienced increased usage in the past several years.
3. That the location and method of work selected by the Town's Engineering Department is hereby found to be and is the economical and efficient to accomplish the aforesaid purpose.
4. That the Town of Bethlehem is exempt from compliance with the provisions of Article 2, Eminent Domain Procedure Law in that, pursuant to the Eminent Domain Procedure Law, Section 206(D), it is the opinion of the Town Board of the Town of Bethlehem, and is hereby so found by said Board, that the acquisition of the necessary interests in real property from Elizabeth A. Clough, the owner of 439 Krumkill Road, is de minimis in nature so that the public interest will not be prejudiced by the construction of the project.
5. That the appraisal prepared by Gerald Griffin, MAI, opining just compensation to Elizabeth A. Clough in the amount of \$1,850.00 be and the same hereby is approved.

BE IT FURTHER RESOLVED that, for the purpose of carrying out these determinations, the Supervisor is hereby authorized and directed to proceed in accordance with the applicable provisions of the Eminent Domain Procedure Law to acquire said interests in real property as is necessary for the elimination of the sight distance limitation for vehicular traffic on Krumkill Road located at 439 Krumkill Road as have not been already been acquired by negotiation and to enter into and execute such documents as may be necessary to carry out the purposes of this Resolution; and

BE IT FURTHER RESOLVED that the Supervisor is hereby authorized to employ the services of special counsel and a consultant fee appraiser for these purposes.

The Resolution having been duly seconded by Councilman Lenhardt, it was adopted by the following vote:

Nayes: None.

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

Commissioner of
Public Works
change in
Water Conserva-
tion Measures
due to drought

The next item was a recommendation from Commissioner of Public Works, Bruce Secor, for a change in Water Conservation Measures due to Drought Warning. Supervisor Fuller asked Mr. Secor to provide information on this item. Mr. Secor said a copy of the letter received from New York State Department of Health was distributed to the Board, dated July 20, 1999, and it was a formal notice to the Town that a drought has been declared for most of the State and a Drought Warning has been declared in the areas around us. As a result, they are recommending that the water conservation measures be increased.

In his Memorandum, Mr. Secor noted the Vly Creek reservoir which is the primary supply for the residential area is at about 85 percent of the normal seasonal level. He said the conservation measures have helped but it is time to keep a watch on the reservoir. He said the combination of increased flows and also the fact that more is lost due to evaporation without any rain in sight, has resulted in his recommending watering be allowed only between the hours of 6 a.m. and 8 a.m. He said the current restrictions are no watering between 10 o'clock in the morning and 8 o'clock in the evening. He said they are looking at turning that around and making it simpler, similar to

what Guilderland and a number of other communities have allowing only watering in the morning. He said it would be 2 hours in the morning if someone wanted to water their lawn. He said this is supposed to be the better time of the day to help the plants and it soaks in before the sun evaporates it. He said rather than going to an odd/even and getting everyone confused, they are allowing watering in the morning.

Supervisor Fuller said there was also a letter sent out to the different fire departments in Town asking them to use common sense with the use of water. She said for the fire departments it becomes an emergency situation. She said some of the training requires water and in speaking with 3 chiefs that have contacted her, she assured them they were not cut off from using water but just to use it sparingly.

Supervisor Fuller said the other thing was that they have asked all industrial users of water to conserve and let the Town know what measures they are taking to conserve the use of water. She said this is not a problem unique to the Town of Bethlehem. She noted every evening on the news and in the newspaper there is mention of the drought and we need to be seriously conserving water for the future. She said that is what this was all about.

Mr. Secor said one last step, and they have talked to the Building Department, they are going to go around and talk to the individual builders. He said this is a very poor time of year to try and put in a brand new lawn, they are going to shut off the hydroseeders and ask people not to try to establish new lawns. He said many of the better grade grasses that are put down require 7 to 14 days of continuous watering just to germinate the seed. He said now there is a tender little baby seedling and it needs to be nurtured. Basically, he said if you try to start a lawn now you would have to soak it right through the worst of the drought. He further noted the Building Department has agreed that they can issue Certificates of Occupancy without an established lawn and go back and get that stuff later. He said they are going to ask wherever they can, for new lawns not to be put in until October or so when it is cooler and easier to establish a lawn.

Councilman Davis said she knew in the beginning of the season, late spring/early summer, many of the residents were not aware of the restrictions that were in place. She thought it took a while for the community to become aware. With the change, she asked if there will be an all-out effort to notify the people. She said she thinks it is critical. Mr. Secor said they have been advertising in the Spotlight and had it on the public access channel. He further said they have been handing out notices to the public and publishing notices. He said they have had people going around 4:30, 5:30, 6:00 o'clock and handing out notices which were either door hangers or notices and on the bottom of each notice there is a tear off slip to write down the name and address of the person who was spoken to and turn it into the office. He said they really do not have that many repeat offenders. He said it is mostly an educational thing. He said people seem to be very cooperative.

Mr. Secor said the previous notices were blue and they are going to change the color to keep track of the difference in regulations. He said they will go around and do that in addition to the advertising and public notices.

Councilman Davis said she knows the different tv channels -- 6, 10, 13 -- have been, in the earlier summer, notifying the public of the communities that had increased their restrictions. She asked if Mr. Secor will be doing that kind of thing. Mr. Secor said they will make a release up for them.

Supervisor Fuller said there was a need for the Board to vote on the 6 a.m. to 8 a.m. and then the notices can be sent out. She asked if there were any other questions. Councilman Burns was wondering if there was a document or guideline like a drought preparedness plan. Ms. Burns said there are things to be kept straight which were listed by Mr. Secor. Mr. Secor said the Board all got a copy of the draft drought emergency plan and that is what they are working off of. He

said some of the steps are specifically in there and others will kick in. He said since we are not yet at a reservoir level that does not throw us into a warning although the State has declared a warning, the Town is in a gray area.

Mr. Secor said we are increasing the conservation efforts. He said in the plan there are specific goals that have to be met if we are in a warning situation. He said the State also sent more information, about 8 or 10 pages, which he did not copy that was a portion of the State drought emergency plan and they had some general guidelines. He said he can make that available through the Town Clerk. He said he did not want to bury everyone with paper. If anyone wishes a copy, he will provide it. Councilman Burns said she was just looking for general guidelines for this Town, what we are doing tonight and we have mentioned 4 of them.

The motion was made by Mrs. Davis and seconded by Mr. Johnson to approve the water conservation measures with regard to the drought warning and allow outside watering ONLY between the hours of 6 a.m. and 8 a.m. as recommended by Commissioner of Public Works, Bruce Secor. The motion was passed by the following vote:

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

The next item was to approve Town Board Minutes of June 23, 1999.

Approve Town
Board Minutes
June 23, 1999

The motion was made by Mrs. Davis and seconded by Mr. Johnson to approve the Town Board minutes of June 23, 1999 as submitted. The motion was passed by the following vote:

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

Bob Marriott
addressed the
board about
extension
of time for
CMI

Supervisor Fuller asked if anyone wished to address the Board. Mr. Bob Marriott, 497 Delaware Avenue, addressed the Board regarding the extension of time that was approved for CMI to start the assistive living facility. He said earlier there were people representing the Bethlehem Ice Group and noted they mentioned the facility will be 76,000 square feet and also mentioned it would be second largest building in Town. He said the building of CMI is 69,000 square feet and is only 10 percent less in size than the Bethlehem Ice Group's building. He addressed the layout for the ice building and the fact CMI is making their building visible and not keep it hidden from the road. He said it does upset the neighbors. He asked the Board when they are discussing things in the future consider revoting on this measure and changing their vote to not extend the time for construction and not let them build it and return the zoning of the property to residential the way it should be. He thanked the Board.

Supervisor Fuller noted just for clarification that the reason for the extension is simply because of the legal situation. Mr. Marriott said he was aware of that. Supervisor Fuller said it has not been in the court yet and that Mr. Marriott knew, as well as, she did that there are 2 lawsuits pending. She said technically they do not have a choice due to the fact the project has been approved. She said the time is running out because the time frame was set prior to the litigation. Mr. Marriott said the Board does not have to give them an extension. Supervisor Fuller said she thought they had to to preserve the legal system. Lawsuits have been brought, Mrs. Fuller said, and they need to have this before the court. Mr. Marriott said the request to extend the time did not have to be done, the Board can change their mind and say no not to extend it.

Attorney Kaplowitz said it is ever changing the zoning and it is a difficult concept. Mr. Marriott said he knows that and said that

if the Board had voted no, CMI probably would have sued the Town and such things. Mr. Kaplowitz said somewhere along the line, CMI or any other developer acquire certain rights and interests into what is going on. He said it used to be, the old law for years, once they put footings in the ground you could not take it away from them. You could not change your mind or anything else, according to Mr. Kaplowitz. He said more recently, the cases seem to hold you have to look at the developer's investment and how much has been spent out of the total if you want to change your mind or when and if you want to change your mind and see if that is fair. He said a court would look at it and say whether it is fair or unfair. He said he has no idea what they have invested so far. He said it cannot be a huge part of the overall.

Mr. Marriott said he is still within his right to ask what he asked. Attorney Kaplowitz said that was correct. Mr. Marriott thanked the Board and Supervisor Fuller thanked Mr. Marriott.

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Supervisor Fuller asked if anyone else wished to address the Board. Mrs. Mary Ann McDermott, 2 Weigand Lane, involving the same issue asked if there was any idea how long the litigation may take. Supervisor Fuller said they have no idea. Mrs. McDermott further asked if it takes years and years for things to happen and they have 180 days beyond that. Attorney Kaplowitz said it is not going to take years and years but it may take a year or two, indicating he was guessing. Mrs. McDermott said they just want to know what kind of long haul they are in for as well. Councilman Burns said she asked that same question of Miss Leistensnider today and was told it could possibly be next year before it is even heard. Mrs. McDermott thanked the Board. Attorney Kaplowitz said it depends because there are different steps in the case. He said it depends on what happens between now and then. He said it is impossible to predict with too much accuracy. But, a year or two is reasonable, Mr. Kaplowitz said, indicating it could be that long. Mrs. McDermott thanked the Board and Supervisor Fuller thanked Mrs. McDermott.

MarvAnn McDermott
address board
about the length
of litigation
the CMI case

- - -

Supervisor Fuller asked if anyone else wished to address the Board. There was no one.

Supervisor Fuller asked for a motion to meet in Executive Session following the close of the regular meeting to discuss police negotiations.

Town Board
adjourn to
executive
session
no action tak

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to meet in Executive Session following the close of the regular meeting to discuss police negotiations. The motion was passed by the following vote:

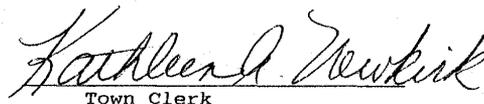
Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Johnson,
Ms. Burns.

Noes: None.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to adjourn the regular Town Board meeting at 8:10 p.m. The motion was passed by the following vote:

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

Noes: None.


Town Clerk

EXECUTIVE SESSION

There was no action taken at the Executive Session.