

TOWN BOARD
AUGUST 12, 1998

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
Bernard Kaplowitz, Esq., Town Attorney
Kathleen A. Newkirk, Town Clerk

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

The first item on the agenda was a request from John LaForte, Delmar, New York, owner of premises adjacent to the intersection of Elm Avenue and Delaware Avenue, Delmar pertaining to a rezoning to commercial.

Request from
John LaForte
pertaining to
rezoning to
commercial

Supervisor Fuller said a letter had been received on the rezoning of the premises at Elm and Delaware Avenues. She asked Mr. LaForte if he would like to do a presentation. Mr. LaForte gave background information and his recommendations for the rezoning of this parcel of land. He said Mr. Hostetter was joining him in regard to this request.

Mr. LaForte feels there is a hardship with the zoning in the area of Elm Avenue and Delaware Avenue and that it has existed over the years. He feels that the land should be changed to commercial to accommodate the mixed nature of uses in this area. Mr. LaForte presented pictures showing the various uses in the area. He exhibited a map showing the Residence B zoning area. Mr. LaForte gave a full statement regarding the reasons for the request.

Questions were posed by the Town Board Members and Town Attorney. Mr. LaForte answered them. Mr. Lipnicky, Town Planner, also provided some answers to questions.

Supervisor Fuller asked the Board if they wished to send this to the Planning Board for recommendation. Questions and comments followed by the Town Board Members.

The Supervisor made a motion to table this item, indicating she would be in touch with Mr. LaForte and Mr. Hostetter. The motion was seconded by Mr. Lenhardt and 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 Flach Industries, Inc., Glenmont, New York for a change in zoning from "C" General Commercial to Light Industrial for premises Route 9W, Selkirk. Mr. Edward Kleinke, Landscape Architect with an office in Delmar, representative of Flach Industries, Inc., presented information pertaining to the request for a rezone of property located on Route 9W, known as the Wickes site, Selkirk. Mr. Kleinke gave full background on the site and the proposed use. He explained the property is adjacent to the railroad lines and indicated the highways in the areas. He said it is located on the westerly side of Route 9W and is about 25 acres in size. Full information was provided to the Board by Mr. Kleinke.

Request from
Flach Industries
for change from
"C" General
Commercial to
Light Industries

Mr. Kleinke said Flach Industries has a number of businesses and these include uses that would be appropriate at this location. He

noted the rail lines were used to receive raw materials and transport finished productions from the site. He further noted Flach Industries purchased the property including the parcel that connects to the railroad land proper.

Mr. Kleinke also gave information regarding the zoning in the area. He included information pertaining to the Special Permits/Exceptions granted by the Board of Appeals. He noted all the applications were made by Wickes Lumber.

Mr. Kleinke said the request to light industrial is due to Flach Industries Inc. wanting to use these buildings as they presently exist. The request is to permit warehousing, light manufacturing, and technology manufacturing kinds of uses that could be offered to other companies by Flach Industries, according to Mr. Kleinke. He said the present goal is to use the existing buildings, noting there is approximately 77,000 square feet.

Mr. Kleinke thanked the Board for the opportunity to present the information.

Councilman Johnson asked if the uses could be specific. Attorney Kaplowitz said the courts have not been clear in the last few years that you can add certain conditions, however, the conditions have to relate to what is requested. He said you have to be very careful when the conditions are drafted. Mr. Kleinke said there are 5 uses listed in the light industrial that are not in the commercial. He said the differences are laboratories, research and testing; manufacturing such as clothing, electrical appliances, plastics, food products, preparation, leather goods, machinery parts and accessories with some qualifications; bottling works; stone or monument works; storage warehouses; and freight and/or truck terminals. He said in terms of looking at the site, 2 of the things are of particular interest to Flach Industries -- manufacturing and storage warehouses including truck terminals.

Councilman Lenhardt asked Town Planner Lipnicky what is in the Land Use Planning Resource Reference guide in regard to this parcel. Mr. Lipnicky said off the top of his head he did not know. Councilman Davis said she spoke with Building Inspector Flanigan and he indicated it was consistent with the use requested. Mr. Kleinke said the reference resource identifies this site in particular as highway commercial and everything about and around it that is shown in the green area as light industrial park. Mr. Kleinke noted the Selkirk Bypass also has a relationship with the site.

Supervisor Fuller asked if there were any other questions. There were none. She thanked Mr. Kleinke. The Supervisor asked for a motion to refer to the Planning Board and also have it move along with the Planning Board.

Mr. Johnson made a motion to refer the application to the Planning Board and Mrs. Davis seconded by motion. Councilman Lenhardt said he thought it should be tabled as Mr. LaForte's was. Supervisor Fuller noted she thought the first was tabled because of some confusion. Mr. Kleinke indicated he would be happy to provide any additional information that might be needed. Councilman Lenhardt said he hoped the application would not have to go through the lengthy review process that normally happens with a Planned Commercial District. He said this could be handled by the Town Board without Planning Board review, noting he would like input from the Board. Councilman Davis said the only way to get input is to send it on to the Planning Board. Supervisor Fuller said for a review it has to be referred to them. Mr. Kleinke indicated he would be happy to remain with the Town Board. Councilman Burns asked if the Board could set a public hearing. Supervisor Fuller noted it could not be done if it was being referred to the Planning Board.

Supervisor Fuller noted there was a motion and a second to send it to the Planning Board. Councilman Burns asked if the reason for the Planning Board is to get their recommendation. Supervisor Fuller indicated yes. Councilman Burns asked the time frame within which they usually respond. Supervisor Fuller said long. Councilman

Lenhardt said technically one year. Councilman Davis said that is because of the nature of the proposals that have gone to them. Supervisor Fuller said that the CMI proposals involved site plan review which was done when the recommendation was requested. She asked if there is a way for a recommendation from the Planning Board inquiring if this is feasible or did they have to go through a complete review. Mr. Lipnicky said he thought these were 2 completely different things. He did indicate the request should be placed back on the agenda to proceed with the SEQR process.

Councilman Burns asked if this could be tabled. Councilman Lenhardt asked if it was not standard procedure that the proposal go to the Planning Board before coming to the Town Board. Supervisor Fuller said no it is not. Councilman Lenhardt indicated he made a mistake and said he thought the Planning Department did a review prior to coming to the Town Board. Mr. Lipnicky said that is the Board's option. Supervisor Fuller said no, noting most of the applications come directly to the Town Board and then they are sent on. Mr. Kleinke again offered to sit down with the Planning Department and review it. He said there are no other involved agencies regarding SEQR but he would be willing to go over this also.

The motion to refer to the Planning Board was removed from the floor by Supervisor Fuller. The motion was made to table the request for rezoning of the Wickes site by Flach Industries, Inc. by Supervisor Fuller, with review to be done by the Planning Department and it be placed back on the Town Board agenda by September 9, 1998. The motion was seconded by Mr. Lenhardt and 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 the Traffic Safety Committee to consider a proposed Local Law amending the Code of the Town of Bethlehem, for Parking Prohibited at All Times on Oakwood Place, east side from Kenwood Avenue north for a distance of 100 feet. Could set public hearing for September 9, 1998 at 7:30 p.m.

Supervisor Fuller explained that this is to allow school buses as they exit the parking lot of the middle school space. Many of the buses, according to the Supervisor, go straight across Kenwood Avenue and some have difficulty getting through on Oakwood Place with cars parked on both sides.

Recommendation
from traffic
safety Parking
Prohibited at
all times on
Oakwood Place

The motion was made by Ms. Burns and seconded by Mr. Johnson to approve setting a public hearing for September 9, 1998 at 7:30 p.m. to consider a Local Law amending the Code of the Town of Bethlehem regarding Parking Prohibited at All Times on Oakwood Place, east side from Kenwood Avenue north for a distance of 100 feet. 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 adopt a resolution appointing Election Inspectors and Poll Clerks as submitted by the Democratic Chairman of the Town of Bethlehem for conduct of elections for 1998-99.

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

Adopt resolution
appointing
Democratic
Inspectors and
Poll Clerks

RESOLVED, that pursuant to Article 3 of the Election Law, the following persons be and they hereby are appointed Election Inspectors as recommended by the Democratic Committee to serve for the period July 15, 1998 through July 14, 1999 as indicated on the attached lists (filed in the Town Clerk's office).

The resolution was adopted by the following vote:

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

Noes: None.

Councilman Davis asked when the list was due. Town Clerk Newkirk indicated they are supposed to be done before July 14th. Councilman Davis further asked when they were received. Town Clerk Newkirk noted it was a couple days after the last meeting. Councilman Davis said they were delinquent. Town Clerk Newkirk said they were past the date. Councilman Burns said the Chairman was looking for just the right people. Supervisor Fuller asked if he found them. Councilman Burns said she would have to ask him.

The next item was to adopt a resolution setting fees for the conduct of elections for 1998.

Adopt a resolution
setting fees
to conduct
elections 1998

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

RESOLVED, that in accordance with Election Law, Section 3-420,
and Town Law Section 27, Subdivision 2, the following shall be the
fees for the election officials for 1998:

Inspector (presidential year when 2 days)	Primary \$80.00 Registration Day \$30.00 Registration Day \$60.00 Election Day \$100.00 Instructions \$10.00
Chairman	Return of Supplies to Town Clerk's Office \$8.00 Mileage for above returns and instructions per mile \$.25
Poll Clerks	Election Day \$75.00
Janitors	Primary Day and Election Day - \$15.00
Custodians	Per Machine \$20.00
Technicians	Per Day \$32.00
Party Representatives	\$10.00 per hour

The resolution was adopted by the following vote:

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

Noes: None.

Parks and
Recreation
approval

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 Mr. Lenhardt and seconded by Ms. Burns to
approve the appointment of seasonal personnel as listed on the
Memorandum from David Austin, Administrator, Parks & Recreation
Department, dated August 12, 1998 and on file in the Town Clerk's
Office 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.

The following item was a request from Administrator, David Austin, Parks & Recreation Department, for approval of a resolution pertaining to the use of Capital Reserve Funds for final paving of the boat launch area, paving of parking lots at the Elm Avenue Park and resurfacing of the pool complex deck. Supervisor Fuller noted this item would be subject to a permissive referendum.

Parks and Recreation approval of resolution use of Capital Reserve Funds paving parking lots and resurfacing pool complex deck

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 12th day of August 1998, 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 make improvements to parking and concrete deck areas at Elm Avenue Park and Henry Hudson Park, and

WHEREAS, it is estimated that the costs of said work will be approximately \$25,000 and

WHEREAS, IN RECOGNITION OF THESE NEEDS, FUNDS FOR SUCH WORK ARE IN THE Recreation Capital Reserve Account; and,

NOW, THEREFORE, BE IT RESOLVED that it is in the public interest to complete this paving and resurfacing work; and,

BE IT FURTHER RESOLVED, that the Town Board authorizes the expenditure of the reserve monies to fund these projects up to a maximum amount of \$25,000.

BE IT FURTHER RESOLVED, that the Town Comptroller is authorized to expend from the Recreation Capital Reserve Account the funds necessary up to \$25,000 in said reserve fund; and

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

The motion to adopt the resolution was made by Mr. Lenhardt, 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.

Supervisor Fuller asked if there were any questions. There were none.

Councilman Davis mentioned to Mr. Austin that she keeps hearing good things about the boat launch. Mr. Austin thanked Mrs. Davis. He said there were 59 vehicles there one Sunday this summer. Councilman Davis noted the lamp post was most appreciated by the boaters. She said it makes a real difference in their safety in getting in and finding it at night. Councilman Johnson said he talked to 2 or 3 boaters this week and they had observed people loosing cars and boats at other launches around the area and it was nice to be able to say how nice this is doing. Mr. Austin said hopefully we won't loose too many.

The next item was a recommendation from David Austin, Administrator, Parks & Recreation Department, for approval of award of bid for playground equipment for the Selkirk Park. Supervisor Fuller noted this is not the low bidder. She said the low bidder did not meet the specifications.

Parks and Recreation approval to award bid for Playground equipment to Universal Play Systems

The motion was made by Mr. Lenhardt and seconded by Ms. Burns to approve the award of bid for playground equipment for the Selkirk Park to Universal Play Systems, Inc., Larchmont, New York at a bid price of \$24,207. The motion was passed by the following vote:

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

Highway
Department
Superintendent
approval
expenditure
pertaining
to tank
replacement
and resolution

The following item was a request from Gregg Sagendorph, Highway Superintendent, for approval of expenditure from General Fund Capital Reserve account pertaining to tank replacement work at the Highway Garage, Elm Avenue East, Selkirk. Supervisor Fuller asked Mr. Sagendorph to give the background. She noted he had some back surgery and was hoping he was doing better.

Mr. Sagendorph said surgery was unrelated to the tank episode. He said 3 weeks ago he encouraged the Board to fasten their seat belts. He said hopefully it is coming to the end of the ride. The highway facility is starting to look like the highway facility again.

Mr. Sagendorph said the new tanks have been installed. He said at the last meeting the change order was to put in a waste oil tank and do a tank test on the 10,000 gallon heating oil tank. They did the test the day after the approval, and the tank failed the test. He said it had to be pumped out. He noted 10,000 gallons of fuel had to be removed and the tank removed. He said they located a 12,000 fiberglass double wall tank which meets the guidelines. It has been received and installed underground. He said there is still some monitoring equipment that needs to be installed. He said the monitoring wells are in and the initial sampling should be taking place in the near future.

Mr. Sagendorph said they are on board with everything, however, additional funds are needed. He indicated there was a list of approximate costs involved provided. He said the last item is site remediation equipment and installation. He said at the last meeting he talked about a retrieval system and noted that is the last item on the list.

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 12th day of August 1998, 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 perform additional upgrade work on the Highway Department's fleet fuel facility; and

WHEREAS, it is estimated that the cost of said additional work will be approximately \$35,000 and

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

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

BE IT FURTHER RESOLVED, that the Town Board authorizes the expenditure of the reserve moneys to fund this project up to an additional maximum amount of \$35,000, and,

BE IT FURTHER RESOLVED, that the Town Comptroller is authorized to expend from the General Fund Capital Reserve the funds necessary up to an additional \$35,000 in said reserve fund; and

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

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

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

The next item was to acknowledge receipt of the Quarterly Franchise Fee from Cablevision in the amount of \$45,034. for the second quarter of 1998.

Acknowledge receipt of quarterly Franchise Fee from Cablevis

The next item was a request from Engineering Services Administrator, Michael Cirillo, for acceptance of a deed for storm drainage easement purposes for the rear of 64 Hudson Avenue and the rear of lots fronting on Bailey Avenue, Delmar.

Engineering Servi acceptance of dee drainage easement rear 64 Hudson Av

The motion was made by Mrs. Davis and seconded by Mr. Johnson to accept the deed for storm drainage easement purposes from Slingerlands Hollow Co., Cohoes, NY for 64 Hudson Avenue and the lots fronting on Bailey Avenue as indicated on the maps attached to the deed document. 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 Engineering Services Administrator, Michael Cirillo, for acceptance of a deed for right-of-way on Wemple Road and Weisheit Road, Selkirk.

Engineering Service acceptance of deed right-of-way on Wemple Road

The motion was made by Mr. Johnson and seconded by Ms. Burns to accept the deed for right-of-way for Wemple Road and Weisheit Road, Selkirk from Mrs. Doris L. Weisheit, Glenmont, 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 to approve the Town Board minutes of June 24, July 8 and July 22, 1998 as submitted.

Approval Town Board minutes June 24 and July 8,22 1998

The motion was made by Mr. Johnson and seconded by Ms. Burns to approve the minutes of June 24, 1998 as submitted. The motion was passed by the following vote:

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

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The motion was made by Mr. Johnson and seconded by Ms. Burns to approve the minutes of July 8, 1998 with corrections as indicated by Councilman Davis. The motion was passed by the following vote:

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

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The motion was made by Mr. Johnson and seconded by Ms. Burns to approve the minutes of July 22, 1998 as submitted. The motion was passed by the following vote:

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

Supervisor Fuller asked if anyone wished to address the Board. Mrs. Capone said this afternoon she got a photocopy of John LaForte's remarks during the CMI hearing. She said he was very much against the change of zoning. He said he is also sensitive to the neighbors

Mrs. Capone
spoke

who have single family homes that are in the neighborhood, according to Mrs. Capone, and their concerns are valid. Mrs. Capone said that Mr. LaForte said tonight modest houses. She said it is 2 houses that are in very good condition. She said one is Michael Mooney's and Michael Mooney bought a house next to a residential lot, now he will find himself next to a commercial lot. She said she thinks John LaForte is looking to increase the value of his property by spot zoning it. And, she said she does not think if he had taken the offer that Stewart's made him, not ask for so much, he could have sold it. She said Mr. Kaplowitz could have fixed it but he wanted more money and now he is here. Mr. Kaplowitz asked what he would have fixed. Mrs. Capone said he could have sold it for him.

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

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to adjourn the regular Town Board meeting at 9:04 p.m. The motion was passed by the following vote:

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

Kathleen A. Newkirk
Town Clerk