

TOWN BOARD
AUGUST 22, 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 Deputy Supervisor at 7:30 p.m.

PRESENT: 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

ABSENT: Sheila Fuller, Supervisor

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Deputy Supervisor Lenhardt welcomed everyone to a regular meeting of the Bethlehem Town Board. He invited everyone to join in the pledge of allegiance.

Deputy Supervisor Lenhardt explained that the Supervisor was not in attendance due to some minor elective surgery and must be off her feet for a few days.

The first item on the agenda was a request from Building Inspector, Kevin Shea, for consideration of a request from a homeowner to construct a 2 foot extension on front entranceway at 26 Eton Road, Slingerlands.

Mr. Shea explained that this is within a Planned Residential District and basically anything that changes requires Town Board approval. He said any major significant change requires an amendment to the Building Project Approval. He said this was not a significant item, just a 2 foot overhang, and the Town Board can grant permission to allow this change.

Question was raised regarding whether there were any extenuating circumstances other than to protect her family when they wait to open the door. Mr. Shea indicated Ms. Bluestein did not mention any. He said basically on something like this it is more of a protection from the weather, noting they were short overhangs to begin with in the original design.

The motion was made by Mr. Plummer and seconded by Ms. Burns to approve the request of Building Inspector, Kevin Shea, for construction of a 2 foot extension on the front entranceway at 26 Eton Road, Slingerlands as requested by the homeowner, Ms. Carol Bluestein. The motion was passed by the following vote:

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

Noes: None.

Absent: Mrs. Fuller.

The next item was a request from Kevin Shea, Building Inspector, for approval of a trailer permit at premises Delmar Village, Delaware Avenue, Delmar.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve a trailer permit at premises Delmar Village, Delaware Avenue, Delmar, New York as requested by Kevin Shea, Building Inspector. The motion was passed by the following vote:

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

Noes: None.

Absent: Mrs. Fuller.

The following item was a request from Engineering Services Administrator, Michael Cirillo, for release of easement, 72 Voyage Drive, Glenmont.

The motion was made by Ms. Burns and seconded by Mrs. Davis to approve the release of easement for 72 Voyage Drive, Glenmont, New York as requested by Engineering Services Administrator, Michael Cirillo. The motion was passed by the following vote:

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

Noes: None.

Absent: Mrs. Fuller.

The next item was a request from Michael Cirillo, Engineering Services Administrator, for release and reduction of bonding for Terramere Planned Residential District.

The motion was made by Mrs. Davis and seconded by Ms. Burns to approve the release of bonding (Letter of Credit No. S231033NJY in the amount of \$38,645 for Frost Commons) and reduction of bonding (Letter of Credit No. S220704NJY in the amount of \$89,230 for Thackery Drive, Emerson Common and Claire Common to a new bond amount of \$16,400) for Terramere, PRD, as requested by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

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

Noes: None.

Absent: Mrs. Fuller.

The next item was a presentation and discussion by Mr. John Flanigan regarding Adult Entertainment Regulations. Deputy Supervisor Lenhardt introduced Mr. John Flanigan to make a presentation and elicit discussion regarding Adult Entertainment Regulations.

Mr. Flanigan said he has been researching this information at the direction of the Supervisor since early spring. He noted he has been to the Association of Towns, New York State Planning Commission and other municipalities to review information on this item. He said there are none that anyone is aware of at this time, however, this does not mean it could not happen tomorrow. He said if it happens and there are no regulations, it could create an uproar from the community.

Mr. Flanigan said there was a reason to put something in, noting this was not a reactive action but an attempt to put in regulations to protect the Town. Mr. Flanigan proceeded to outline some definitions and types of regulations found in other areas.

Mr. Flanigan said the ordinances vary from 3 to 4 pages to up to 18 pages in length. He said he thinks a 3 or 4 page section could be done as long as proper definitions are in place, define where they are allowed and put some restrictions to protect the churches, day care centers and other uses.

Mr. Flanigan stated adult entertainment uses cannot be banned but there can be regulations for location and various planning tools used. He said the big problem with this is the court cases that specifically say you cannot regulate the content but you can regulate the use locations. Things to be looked at would include the secondary impacts which are many.

Mr. Flanigan noted all the studies and information he has reviewed and put together are contained in the binder to be on file with the Town Clerk.

Mr. Flanigan noted he felt Heavy Industrial zones would be the area most suited to this, however, possibly a stipulation for 500 or 1000 feet from churches, child care centers, schools and other uses that should be protected. Town Attorney Alessi said the law requires a balance in regard to the uses. He said one of the things you have to demonstrate is that if you limit them that you demonstrate that there are alternative locations. He said the criteria cannot be made such that a location could never occur because you cannot ban the uses. He said restrictions can be put on strict enough to achieve the goals but not so strict that there's no location for them to go.

Question was raised as to whether a moratorium would be appropriate with regard to any of these uses coming into Town while these regulations are developed. Town Attorney Alessi said this can be looked into including the issues being discussed. Mr. Flanigan said he was looking at 2 months as a time frame for getting this in place.

Decision was made for Mr. Flanigan, Mr. Alessi and Mr. Lipnicky, Town Planner, to review the information, draw up a proposed regulation regarding Adult Entertainment Regulations and come back to the Town Board in September or October of 2001. Town Attorney Alessi said he thinks he understands the Board's overall goals and something should be drafted as a proposal.

Councilman Davis thanked Mr. Flanigan for all the work he put into the information that was presented. She said she has been nagging him for this information because she has heard from constituents how important this is to them. She said she appreciated his working on this. Mr. Flanigan said he fears that after the article in the Spotlight residents will think they are going to be allowed. This is simply an effort to regulate them, Mr. Flanigan stated.

Deputy Supervisor Lenhardt thanked Mr. Flanigan.

The following item was to approve the Town Board minutes of July 25, 2001 and August 8, 2001.

The motion was made by Mrs. Davis and seconded by Ms. Burns to approve the Town Board minutes of July 25 and August 8, 2001 as submitted. The motion was passed by the following vote:

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

Noes: None.

Absent: Mrs. Fuller.

The Deputy Supervisor asked for a motion to adjourn to Executive Session to discuss a personnel matter.

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

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

Noes: None.

Absent: Mrs. Fuller.

Deputy Supervisor Lenhardt reconvened the regular Town Board meeting following the close of the Executive Session at 8:35 p.m.

The Deputy Supervisor asked for a motion to approve the hiring of Attorney

Michael Smith as the Town's Special Counsel for collective negotiations associated with the Police Officers Benevolent Association.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve hiring Michael Smith, Esq. at a rate of \$150 per hour and a rate of \$135 per hour for any associate attorney time as the Town's Special Counsel for collective negotiations associated with the Police Officers Benevolent Association.

The motion was passed by the following vote:

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

Noes: None.

Absent: Mrs. Fuller.

Deputy Supervisor Lenhardt asked for a motion to meet in Executive Session following the close of the regular meeting to discuss potential litigation.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to meet in Executive Session following the close of the regular Town Board meeting to discuss potential litigation. The motion was passed by the following vote:

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

Noes: None.

Absent: Mrs. Fuller.

The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to adjourn the regular Town Board meeting at 8:43 p.m. The motion was carried by the following vote:

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

Noes: None.

Absent: Mrs. Fuller.

Town Clerk

EXECUTIVE SESSION

There was no formal action taken at the Executive Session.