

TOWN BOARD
DECEMBER 29, 2005

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 5:30 p.m.

PRESENT: Theresa Egan, Supervisor
George Lenhardt, Councilman
Thomas Marcelle, Councilman
Tim Gordon, Councilman
Colleen Hummel, Deputy Town Clerk
James T. Potter, Esq., Town Attorney
ABSENT: Daniel Plummer, Councilman

- - -

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

The Supervisor asked if anyone had any public comment on any item on the agenda. She requested comments on non-agenda items be held to the end of the meeting.

Mrs. Marie Capone asked what the Delaware Avenue Hamlet meant. Supervisor Egan said there is a grant application that they would like to make that would study the Delaware Avenue area in regard to how things could be made better – transportation, land usage, etc. She said this is just to give the authority to file for the grant.

Mrs. Capone asked what kind of organization they were looking for. The Supervisor said the grant is through Capital District Transportation Committee. Director Leveille said it was similar to the 9W corridor study. Mrs. Capone said the hamlet is a small, small village, indicating Delmar is not a small village. She said every time she reads it she thinks of Martha Stewart who used French words that don't fit what she is talking about.

- - -

The first item on the agenda was a request from Town Engineer, Erik Deyoe to set public hearing January 25, 2006 at 5:45 p.m. in regard to creating drainage district for Milltowne Plaza subdivision, Wemple Rd., Glenmont. Supervisor Egan noted this was on previously but they tabled it in order to make sure the maps and everything were appropriate. She said everything is in order and the public hearing can be set.

The motion was made by Mr. Marcelle and seconded by Mr. Gordon to set a public hearing for January 25, 2006 at 5:45 p.m. in regard to creating a drainage district for Milltowne Plaza Subdivision, Wemple Road, Glenmont. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: Mr. Plummer.

The following item was a request from Commissioner of Public Works, Oliver Holmes, for approval to go to bid for Chemicals. Could advertise January 18, 2006 and open bids at 2:30 p.m. on February 2, 2006.

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

WHEREAS, the Town desires to advertise for bids for the purchase of Chemicals, 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 January, 2006 and that bids be received up to 2:30 p.m. on the 2nd day of February, 2006 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Ms. Egan, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: Mr. Plummer.

The next item was a request from Erik Deyoe, Town Engineer, for approval of acceptance of deeds for Trinity Manor Subdivision, Phase 4.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to accept deeds and easements for Trinity Manor Subdivision, Phase 4 from Stylish Development Corp., Schenectady, New York and Rosewood Home Builders, Inc., Latham, New York. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: Mr. Plummer.

The next item was a discussion of donation to Albany County Volunteer Recruitment Task Force. Town Attorney Potter said the Town does have a valid public purpose in fire protection and in recruiting fire fighters, however, whether a donation can be made depends in a large part upon the nature of the organization, noting this would be whether it was a public or a private entity. He said on December 19, 2005 he sent a letter to them and requested a discussion of the organization but he has not gotten a response as of this date. Supervisor Egan said this item will be tabled until a response is received.

The motion was made by Mr. Gordon and seconded by Mr. Marcelle to table the discussion of a donation to the Albany County Volunteer Recruitment Task Force until further information is received. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: Mr. Plummer.

The next item was a request from George Leveille, Director of Economic Development and Planning, to authorize submission of Delaware Avenue Hamlet Enhancement grant application. Supervisor Egan said an overview was provided as to what they envision the scope to be and it is just authority to submit a grant application. It was before the Board, according to the Supervisor, because there is a requirement of matching funds depending on what the grant application awarded.

The motion was made by Mr. Marcelle and seconded by Mr. Gordon to approve the submission of a grant for the Delaware Avenue Hamlet Enhancement. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: Mr. Plummer.

The following item was a request from Assistant Director of Economic Development and Planning, Mike Morelli, to accept Vista Technology Campus application; refer to Planning Board; and consider acceptance of SEQR Lead

Agency status. Supervisor Egan said the developer was in attendance along with a group of people.

Mr. William Herbert, said they are represented by Saratoga Associates, engineers and a representative from Whiteman and Hanna. He said the team will be going forward with the approval process for the Vista Technology Campus.

A brief overview of the proposed campus was given and noted it will be evolving as they go through the approval process. The total area is approximately 458 acres and covers a portion within the Town of Bethlehem and the rear portion of the site is in the Town of New Scotland. It will contain a series of buildings, which will have a combination of uses from retail and technology businesses. There is also the possibility of a conference center near the boulevard entrance to the area. The estimated build out will be about 1.4 million dollars. The buildings will be all low to mid-rise. Anticipation is for 2 to 3 stories in height. Note was made these buildings will be well buffered. Wetland areas have been defined and mitigation measures are being planned. A traffic study by Creighton Manning is being done to address the effect of the park on the traffic. Storm water management is also being looked at.

Supervisor Egan noted the environmental attorney was also in attendance. She said the lead agency needs to be determined, noting this is a Type I action.

Councilman Lenhardt asked if there was any concept for integrating the existing private cemetery that is in the area. Mr. Herbert said the circular barrier is going to turn that area into an historic park. He said that is their vision for handling the sensitive archeological remains. He said it will encompass one of the oldest homes in Bethlehem also. He said they intend to preserve that as a positive feature of the park.

Councilman Lenhardt said his other question involved when they expect to start the project. Mr. Herbert said they estimate the approval process beginning this evening will be a perhaps 10 to 12 months duration. He said that is the first hurdle so they would like to get in the ground shortly after that year's duration in anticipation of the construction of the bypass, which should be complete some time in 2007. He said that would be the point at which they would like to have a first building close to up and running. Mr. Lenhardt thanked Mr. Herbert.

Supervisor Egan said the Route 85 expansion is still scheduled to kick off Labor Day of 2006, which is very close, noting it is an aggressive environmental schedule, but she thinks everyone is on board with it. She said they have spent a lot of time prepping that schedule and tweaking it to make sure all the particulars are taken care of. She said she thinks in January the group will be back about the feasibility having to do with the roundabout. She said this is an additional roundabout that will be the entrance to the campus, noting it is not technically one of the roundabouts that is part of the Route 85 extension.

Councilman Gordon asked about how they intend to incorporate the old LaGrange homestead. Mr. Herbert said it is part of the park that they intend to build that will encompass the cemetery and homestead. He said there are a couple other structures they are not sure are historical in nature. He said it will be a well preserved center piece for the campus. Mr. Gordon asked if there was any use for the dwelling itself. Mr. Herbert said it is still being considered, noting there has been a discussion of possible use of it as a museum but it is preliminary discussion at this time. Supervisor Egan said there are constraints in regard to what can be done with it because of its historical value. Councilman Lenhardt asked if it was on the register. Mr. Herbert said a study has been done by the Town Historian some years ago and it is well documented.

Councilman Gordon asked if they were waiting on the archeological study report. Mr. Herbert said he has the preliminary findings and they have done a thorough inspection of the whole place. He said it will be incorporated into their future presentation. Councilman Gordon asked if anything has been uncovered that would cause any delay. Mr. Herbert said there has not, noting there has been some

isolated sites that have had extra testing and the team has met with SHIPO and it has been moving forward.

Supervisor Egan asked if there were any further questions. She thanked the team for attending the meeting.

The motion was made by Mr. Marcelle and seconded by Mr. Gordon to accept the application of BBL Development, LLC for the VISTA Technology Campus as a mixed economic development district. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: Mr. Plummer.

- - -

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to approve the referral of BBL Development, LLC application for a Mixed Economic Development District to the Planning Board for review and recommendation. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: Mr. Plummer.

- - -

The following resolution was presented for adoption:

**TOWN BOARD
TOWN OF BETHLEHEM
MIXED ECONOMIC DISTRICT APPLICATION
AND
SEQR LEAD AGENCY COORDINATION
BBL DEVELOPMENT, LLC
FOR
VISTA TECHNOLOGY PARK
DECEMBER 28, 2005
RESOLUTION**

WHEREAS, BBL Development, LLC, (the Applicant) seeks approval from the Town of Bethlehem Town Board for a Mixed Economic Development District (“MEDD”) and concept plan to construct the Vista Technology Park, consisting of a mixture of office space, retail space, a wellness center, restaurants and a conference center, with related and ancillary improvements, including but not limited to necessary access to the Slingerlands Bypass (Route 85) (collectively, the Project); and

WHEREAS, in accordance with Section 128-36(E) of the Town of Bethlehem Zoning Law, the Applicant has submitted the requisite application materials (the “Application”); and

WHEREAS, the Project is considered a Type 1 Action under the State Environmental Quality Review Act (ECL, Article 8) and its implementing regulations (6 NYCRR Part 617) (collectively “SEQRA”); and

WHEREAS, the Applicant has requested that the Town Board take the following actions with respect to the Project:

1. In accordance with Section 128-36 of the Town of Bethlehem Zoning Law, to accept the Application from the Applicant for the Vista Tech Park for further review and consideration by the Town Board;
2. In accordance with Section 128-44 (C) (3) of the Town of Bethlehem Zoning Law, to refer the Application to the Town Planning Board for review and recommendation; and
3. In accordance with SEQRA and Section 128-44(C)(3) of the Town of Bethlehem Zoning Law, to recognize the Project as a Type I Action and declare itself lead agency with respect to the Project;

NOW, THEREFORE BE IT RESOLVED that the Town Board hereby accepts Applicant’s Application for the Vista Tech Park, determines that it shall

consider the Application and in accordance with the Town of Bethlehem Zoning Law hereby refers the Application to the Town Planning Board for review and recommendation;

AND BE IT FURTHER RESOLVED that, in accordance with SEQRA and with the Town of Bethlehem Zoning Law, the Town Board hereby declares the Project to constitute a Type I Action and hereby declares its intent to be lead agency with respect to the Project. The Town Board directs the Town Staff to undertake the necessary coordinated review with other involved agencies to establish the Town Board as lead agency pursuant to 6 NYCRR §617.6.

On a motion by Mr. Lenhardt, seconded by Mr. Gordon and a vote of 4 for, against, 0 abstention and 1 absent, this RESOLUTION was adopted on December 28, 2005.

- - -

Supervisor Egan again thanked Mr. Herbert and said they are looking forward to a fun project. Mr. Herbert thanked the Board

- - -

Supervisor Egan noted a couple things, for anybody who has not noticed Officer Rice has finished his first section of DARE training and the 5th graders from Slingerlands thanked him in a very big and bright way with a large poster exhibited in the auditorium. She said the Principal passed it along for everyone to see all the good things that have been done. She noted Officer Radliff who was doing the DARE training has moved up to the high school as a student resource officer.

- - -

Supervisor Egan said the other thing she wanted to follow-up with this evening was something Councilman Lenhardt brought up at the last meeting and that was a question regarding an outstanding letter with Mr. Jakovic. She updated the Board, noting as indicated the letter was sent back inviting Mr. Jakovic to come in and sit down with all the appropriate Town representatives to address all issues and questions. She noted Mr. Jakovic turned down the offering. She said the war of words has come to an end.

- - -

The Supervisor noted usually the last meeting of the year is greeted with a hurray, however, this one is marked by some sadness. She said a bid of so long has to be given to both Councilman Lenhardt and Councilman Marcelle. She said Mr. Plummer could not be in attendance but sent a note to them as follows:

Dear George and Tom,

I am sorry I could not be with you for your last Board meeting. Terri was kind enough to read this on my behalf.

I admire and respect both of you and I will miss your professionalism and general common sense when it comes to making decisions that come before the Town Board.

It is my opinion that one of the greatest gifts a person can give is to commit time and energy in serving their community – you have both done this with distinction.

On a personal note, thank you both for your friendship and I wish you and your families the very best.

/s/ Dan Plummer

- - -

Supervisor Egan said she certainly wanted to extend her personal thanks to both Councilman Lenhardt and Councilman Marcelle. She said it was an interesting endeavor that started 2 years ago, as far as, mixing things up a little bit and as was said more than once, the support and professionalism, information and

opportunities to step forward and help certainly took precedent over any other private agendas that other people may have engaged in. She wanted to personally thank them for that and extend her gratitude. She said they could not have done the things that have been done in the last 2 years without support and incite and help. She noted she will miss them and wishes them well. She noted Dick Lewis was recruited back into service last week to provide some help with the following proclamations.

Town of Bethlehem

For Meritorious Service

Whereas: From January, 1992 to December 31, 2005, George Lenhardt has served the people of the Town of Bethlehem with honor and fidelity as a member of the Planning Board and the Town Board; and,

Whereas: George Lenhardt has been the voice of institutional knowledge as well as the champion of many and has always passionately advocated for the best for Bethlehem. His tenure has allowed him to be a significant participant in the development of the Comprehensive Plan for the Town that will provide guidance into the future and benefit its residents for many years; and,

Whereas: In addition to his appointed and elected service, George Lenhardt aided the community he loves so well as a member of the Slingerlands Volunteer Fire Department, a Fire Commissioner, a member of the Slingerlands PTA and a coach and instructor to young athletes; and,

Whereas: The people of Bethlehem have been fortunate to have a person of George Lenhardt's outstanding character and abilities willing to give of his time and talents to help make our town a better and more secure place in which to live, work and play. He will be greatly missed by those he served so well for so long; and,

Now, therefore, We, the members of the Bethlehem Town Board, acknowledge a sincere debt of gratitude to George Lenhardt for his dedicated service to the people of Bethlehem and hereby declare December 31, 2005 as George Lenhardt Day in the Town of Bethlehem.

Dated: December 28, 2005
Daniel Plummer, Councilman

Theresa L. Egan, Supervisor
Timothy Gordon, Councilman
Thomas Marcelle, Councilman

- - -

Town of Bethlehem

For Meritorious Service

Whereas: From January 1, 2002 to December 31, 2005, Thomas Marcelle has rendered distinguished and dedicated service to the people of the Town of Bethlehem as a member of the Town Board; and,

Whereas: During his term as a Town Board member, Thomas Marcelle was called upon to assist in making numerous difficult and insightful decisions that resulted in the Town of Bethlehem's ability to provide a plan for its future that will benefit residents for years to come; and,

Whereas: The people of Bethlehem were fortunate to have a person of Thomas Marcelle's integrity, professionalism and dedication as a Town Board member. He will be greatly missed by those he so ably served; and,

Now, therefore, We, the members of the Bethlehem Town Board, acknowledge our deep appreciation to Thomas Marcelle for his outstanding service to the Town of Bethlehem and its citizens and wish him well as he continues his service to others in the future.

Dated: December 28, 2005
Daniel Plummer, Councilman

Theresa L. Egan, Supervisor
Timothy Gordon, Councilman
George Lenhardt, Councilman

- - -

Councilman Lenhardt said 12 years is a long time and he thanked everyone in the community for their support along the way. He said everything is not roses but everyone he dealt with were very professional and he appreciated that. He said he has always tried to do his best and obviously it fell a little short this time. He said he will still be in the Town and thanked everyone.

Councilman Marcelle said he wanted to thank everyone in Town, the Board, all the department heads, George Leveille for the last 2 years and the improvement of his vision, as well as, Supervisor Egan. He said the Supervisor has done a great job and he wished everyone continued success. He also thanked Councilman Lenhardt who was his mentor when he first came on and taught him everything he knew. Supervisor Egan thanked Councilman Marcelle.

Supervisor Egan noted before closing the meeting, there is public comment time. Mr. Jarod King said in regard to the Vista Technology Center it was his understanding and he suggested this be double checked that the technology center in Malta is still with a lot of available space for lease. He said he does not know how fast the State is going to move but if they are going to redo the Harriman center that is going to provide a lot more office space of this type so it should definitely be considered.

Mr. King said the other thing he reminded the Board is that the comprehensive plan calls for the reuse of existing structures and not the construction on green fields and this is obviously construction green fields but something to be kept in mind.

Mr. King said the third thing that he wanted to remind and he feels a little more strongly about is the notion of regionalism. He said he thinks how we in Bethlehem are not necessarily doing enough to work with the City of Albany in terms of addressing regional issues. He said things like crime are a regional issue and providing adequate commercial space for new technology center. He said one thing about the Harriman Center, which is really nice, is that they already have the highway infrastructure already in place to be able to facilitate traffic from all around the region. He said that is not true about Bethlehem. Supervisor Egan said other than it is coming whether Vista comes or not. Mr. King said he understands that but he does think it is something to think about.

Mr. King said the other thing is that Slingerlands does not have a Town park of its own and he does think there should be thought given to what space should be set aside for park development. He said right now we are deficit spending in the Town so that he thinks the desire to spend taxpayer dollars to actually purchase land may not be an idea that is going to be in favor at this time. He said it is land use that needs to be thought about.

Mr. King said he came today to speak about eminent domain. He said it seems that a resolution forbidding the taking of private land for commercial use is inadequate protection for the citizens from government abuse given the recent U.S. Supreme Court case. He said also as the eminent domain is currently being applied locally by the Supreme Court Justices locally, in particular a judge in King vs. Town of Coxsackie, Town Council of Coxsackie.

Mr. King said he had background to give with respect to the historical perspective of eminent domain. He said it is not a common law concept. He said it is a wholly American concept in the colonial period. He said it was indeed the reaction of the American founding fathers to what George III was doing in England in which he would confiscate land with the idea of public safety to build forts. He said although he might build a fort when he did this, he often times gave it to some of his well connected people. He said this was considered repugnant and the land was confiscated without compensation. He said after the Americans adopted such protection, the British adopted this also in the early 19th century.

Mr. King said he thinks it is important to recognize that we are involved in a situation where this is coming to a head. He said in the City of Albany just recently in the Times Union there was land that was on the corner of Hackett Boulevard and Holland Avenue which the zoning was changed from Residential to Commercial. He said the 12 speakers that spoke were all opposed, nearby residents, but such zoning change was passed and the owner of the land saw an immediate benefit upon that change, doubling the value of the land. He said they had bought

residential land with an idea it was residential, lobbied government with a contribution to the Mayor and got it changed where it's other neighbors may be affected negatively by such a change.

Mr. King said this is certainly also true here in Bethlehem with respect to the comprehensive plan. He said there were a number of individuals who purchased land speculatively in the Town of Bethlehem on New Scotland Road with the idea that eventually that land would be converted into commercial use which it was. He said the neighbors who border that land and the post office have complained about Price Chopper bags flying through the yard, mailboxes being knocked down, beer bottles strewn around and youths walking by at early morning hours. He said with respect to the post office, the mail is moved during the early hours of the morning, which creates noise for the residents. He said the private landowners bought the land and are affected. He said anyone abutting undeveloped land may actually have that situation.

Mr. King said in New York State there is a certain procedure. Supervisor Egan asked Mr. King to move one due to the fact the eminent domain matter was considered and passed at the last Board meeting. She said she thinks everybody here is fairly well versed in what the matter was about. She said if there was a particular issue, she wished he would get to it.

Mr. King said there are a couple particular issues. He said first of all he thinks a resolution is inadequate and it should be part of the comprehensive plan. He said he thinks basically such process that is being used currently is subject to abuse politically. He said he thinks because of some of the case law being currently passed that citizens do need certain protections, especially those that are regarding undeveloped land. He said the Town is going to have a situation where people who are neighboring developed land, pitted against citizens who are neighboring undeveloped land because of this constant desire for tax revenue because of government mandates which are coming from the Federal government which are coming into play.

Mr. King said basically to wrap it up, eminent domain also applies to sidewalks, widening of roads also so it is not just the question of a neighbor. He said he wants a broader conception. He said the concept is basically a three member panel that is not in the Town but in the County which decides two things. 1. Is it publicly necessary noting this is a big issue? 2. Is this an acceptable amount of compensation? He said that should be done by individuals, Town's people, not judges who are part and parcel of government.

Mr. King said the issue is not whether we can take the land for sidewalks, etc., government has always had that right but the issue is whether market value is going to be paid. He said that is something that government, when there is deficit spending and constant demand for tax revenue to spend, that those protections need to be in place. He said unfortunately the courts have been really remiss in not actually being strong enforcers of this. He thinks it should be part of the comp plan. He thanked the Board. Supervisor Egan thanked Mr. King.

- - -

Supervisor Egan asked if there was any other public comment. Mrs. Gutman said her husband was with her in attendance also. She said they have a problem with not being treated equally by the Bethlehem Town Police. She said they this mistreatment of them by the Bethlehem Police has been ongoing and they feel it needs to stop. She said December 14th at 1:56 a.m., noted it was on their caller ID, they received a call from the police and woke up her whole house, noting it was alarming and it was very annoying. She said the reason was because a neighbor who lives approximately 100 or 120 yards from their home has a problem that neighbors are upset because vehicles are on the street 3 days a week with no parking ticket. She said her girlfriend was at their home and her car was out front. She said it was not their car. She said the phone call told them that 2 officers were out front ringing the door bell and they were not answering it. She said her son went out and the police officer said to her son that there is a neighbor with a vendetta against you. She said they were fully aware and have the police dockets to

prove him calling the police. Mrs. Gutman said the police are enabling him to call them to come to the house. She said this was not the only incident that they were disturbed with. She said she moved the car into the driveway and the girlfriend did not get a ticket.

Mrs. Gutman said she is not speculating that if it were their car it would have gotten a ticket. She said when the same neighbor called the police department and came to the house, her lawyer told her they should have told him that they were trespassing. She said they went through 6 years by the dirty dozen. She said it was an asbestos criminal and he had halogen lights all throughout one side of their home and laser pointers and the Bethlehem Police would not respond to it. She said the police said there is no noise ordinance and no light ordinance in the Town of Bethlehem and yet the police had been to their door because the neighbor called and said there was noise coming from their house. She said the phone call was late at night and they answered the door and there was no noise from their house. She said the noise was from a party going on up the street. She said the police told them to shut the noise down and she picked up the docket and it was the same neighbor.

Mrs. Gutman said this is ongoing and they feel the Bethlehem Police are enabling him to be obsessed with harassing them. She said they would like it to stop. She said the neighbor's police report with no noise ordinance was priority one and yet when they had all the halogen lights on them for 6 years they did not even get the police to do a docket or show up at their house or acknowledge to the neighbors that they did not want the lights through their house.

Mrs. Gutman said there is another neighbor on the other side of them who is 5 years now living in his home and wrote them a kind letter, indicating she had a copy of it. Supervisor Egan noted she did not have to read it, just summarize it. Mrs. Gutman said it is very short and sweet. It says dear so-in-so, I know that in the past we have not been able to cordially resolve a problem which arises when we both need to snow blow. This year, I hope we can do better. My concern was and is that my husband who has a heart condition not have to do unnecessary snow blowing. My husband moves all the snow down to the front of the house and then would like to place the snow onto the grass on our property at the end of the driveway. If you have already put your snow onto our property then my husband cannot then place our snow on top of yours and he must do extra work to move the snow onto the front of our property. Your kindness in attempting to have the snow, which falls to your property not snow blown onto our property, will be greatly appreciated. Mrs. Gutman said she then wrote, she hoped he and his son and daughter have a very enjoyable fall and winter.

Mrs. Gutman said they called the Bethlehem Police after 2 years of having him snow blow his snow onto their property and they told us that... She said the officer told her that he snow blows onto his neighbors and the neighbor snow blows onto us and we were supposed to accept it. She said then the same neighbor went and pressure washed his fence killing 3 of their perennials and they called the police. She said they said it was a criminal act and when they went and did their pressure washing of their garage and all the paint chips went onto their property they did not call the police, they took pictures. She said she had the pictures with her.

Mrs. Gutman said when a neighbor about 120 yards away from us with the no noise ordinance, no light ordinance, he got a priority one and when they call they get a priority 3, or 4 and they think snow blowing onto their property as their lawyer told them, even if he snow blows onto the right-of-way of the Town that he is not supposed to do that and they have a right to ask him not to do that. She said the Town apparently disagrees with them because the police came and like the officer said, he does it to his neighbor and the neighbor does it back to him.

Mrs. Gutman said they are upset and her husband was falsely arrested in the late 90s by the Bethlehem Police Department and we did not follow through with the malicious prosecution because they did not want the Police Department to mistreat them. She said they did not plan on moving and they are being mistreated

anyway. She said they'd like it to stop.

Supervisor Egan said again, so the Town Board knows, Mrs. Gutman contacted her last week in regard to this concern with respect to the call in the middle of the night. She said she spoke with the Police Chief who spoke to his officer and it was indicated that the call was basically a courtesy so there was no ticket issued. Mrs. Gutman said her lawyer agreed with her and she would have preferred the car be slapped with a ticket or the next day come over and give a warning there is an ordinance and please don't have a car parked there.

Supervisor Egan said that message has been delivered to the Police Department in regard to you'd rather have the ticket than the call. So, that has been placed on. Mrs. Gutman said they have been living in the Town of Bethlehem since 1976 and none of their vehicles have ever been in the wrong of the ordinance and her son's girlfriend was in full knowledge that her car would get ticketed. She said instead they just called. She said the neighbor wanted them to be ticketed. She said the police did not appease the neighbor but did wake up the house, which was alarming, terrifying and annoying. She said they want the mistreatment to stop noting they don't want their neighbor snow blowing and don't want the Police Department to enable him to continue snow blowing and killing their perennials and putting his paint chips onto our property and having the other neighbor just keep enabling the Police Department to harass us.

Supervisor Egan said she wanted to be clear. She asked if it was her claim that there has been a time when you've called the Police Department and they have not responded. She asked if she was claiming that. Mrs. Gutman said yes and that was back when they had the Dirty Dozen asbestos living next door to us in the 90s.

Supervisor Egan said let's say in the last 2 years, has there been a time that she had called the Police Department and they have not responded. Mrs. Gutman said no. The Supervisor asked if there have been times when she has called the Police Department to complain about her neighbors and they have responded. Mrs. Gutman said they did.

Supervisor Egan asked Mrs. Gutman if there has ever been a time she has called to report a problem with one of the neighbors and the Police Department has not responded. Mrs. Gutman asked if the Supervisor was talking about the last 2 years, not about the halogen lights. The Supervisor said that was correct and noted that matter has been resolved. Mrs. Gutman said she did not understand where they are coming from. Supervisor Egan said she was trying to get to the bottom. Mrs. Gutman said they are responding but they're saying they are not criminal acts. She said they are telling them that killing of the perennials on your property is not a criminal act. The Supervisor asked Mrs. Gutman if she has spoken to her attorney about proceeding with a civil matter on this. Mrs. Gutman said her lawyer said if the neighbor to the left doesn't stop or starts using their property as an easement, then he will put them on notice to cease and desist. She said the other neighbor they are begging the Police Department to stop enabling this guy.

Supervisor Egan asked if Mrs. Gutman understands that if somebody calls and makes a complaint the Police Department cannot not respond. Mrs. Gutman said that was right and noted he is a taxpayer too. She said they are taxpayers too. Supervisor Egan said that was understood but if somebody calls and files a complaint, the Police Department is going to respond as they respond to her complaints about the neighbors. Mrs. Gutman agreed. Supervisor Egan suggested that the problem seems to be more of a civil nature and said Mrs. Gutman might have her attorney contact either her or the Town Attorney to see if there is some way to resolve this or talk about different ways to resolve this. She said the Police Department has determined, it seemed to her, and they would have to resolve that Mrs. Gutman's attorney feels the same way these are not acts of a criminal nature but acts of a civil nature and a neighbor dispute, which is handled outside of the Police Department.

Mrs. Gutman asked how they find out if there is a law. Supervisor Egan said there are 2 different issues, noting one is criminal or civil. Mrs. Gutman said they want to know if there is an ordinance. Supervisor Egan said there is no snow blowing ordinance in the community. Mrs. Gutman said they need to know what department they go to in regards to this. The Supervisor said there is no department noting if there is no law being broken, it is not a Town issue, it becomes a civil issue. Mrs. Gutman thanked the Supervisor and wished everyone a Happy New Year.

Supervisor Egan asked if anyone had any other comment. Mr. King said he thinks this is something that the comp plan said there is a incentive for condensed living. He said good fences do make good neighbors and it seems Police calls could be reduced if people were a little further apart. He said there might be consideration given to larger lot sizes. He thanked the Board.

Supervisor Egan asked if there were any other comments. Mr. Gutman said he would like to ask if it is a normal resolution to parking in the road that you have a police officer come to the house at 2 a.m. asking if they do that with everybody. He further asked if there is a guy down the road with a car parked in the road if the Police Department will come and get him out of bed in the middle of the night just to get him to move his car when there's not even any snow emergency. Supervisor Egan said that is a different animal. Mr. Gutman said his question is if this is the normal procedure by the Police Department. The Supervisor said she did not know if it is 100 percent done that way but in this particular case what she was told was that they do it as a courtesy. She said her belief would be they probably would have just ticketed the car and she thinks in this case the officer thought he was doing you a favor by letting you get the car off the road as opposed to providing you with a ticket. Mr. Gutman said it was not his car and if he checked the license plate, the person did not live at his home. Mrs. Gutman said the girlfriend told them she is a friend of the Bethlehem Police and her father was a former State Trooper and the Bethlehem Police did not want to ticket her. Supervisor Egan said she guesses the complaint is because someone was trying to do them a favor, they are not happy. Mrs. Gutman said they do not want to be called at 2 in the morning. The Supervisor said that is the message that has been passed to the Police Department.

Supervisor Egan asked if there were any other comments. She wished everyone a Happy New Year and said see you next year.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to adjourn the regular Town Board meeting at 6:30 p.m. The motion was carried by the following vote:

Ayes: Ms. Egan, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: Mr. Plummer.

Deputy Town Clerk