

TOWN BOARD  
FEBRUARY 10, 1993

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: Kenneth J. Ringler, Supervisor  
M. Sheila Galvin, Councilwoman  
Charles Gunner, Councilman  
Sheila Fuller, Councilwoman  
Bernard Kaplowitz, Esq., Town Attorney  
Kathleen A. Newkirk, Town Clerk

ABSENT: Frederick C. Webster, Councilman

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SUPERVISOR RINGLER: Okay, let's call the meeting to order. Welcome everyone to a regular meeting of the Bethlehem Town Board. I see we have some students from Participation in Government, want to welcome you especially tonight. Tonight is a business meeting of the Board, this is not a public hearing this evening but as with usual practice, at the end of any item on the agenda, as time permits, if anyone would like to ask a question if you raise your hand, we will try and answer it for you. And, at the end of the meeting, anyone who wants to bring anything to the attention of the Board may do so.

Discussion  
Cablevision  
Change in  
Corporate  
Ownership

First item on the agenda is consideration of Cablevision request to allow change in the corporate ownership. Under our new franchise agreement, that we now have that is in effect, no change in control or controlling interest of A-R, the cable television system or the franchise granted shall occur after the date of this agreement and so forth, unless the Town Board approves it. Of course, we cannot unreasonably withhold or delay it but this gives us the purpose of the controls from the... excuse me, the definition of what a change means is that the control, effective majority control or actual working control shall change. Also, any change of anyone with 10 percent of stock. In this particular case, A-R advised us, during negotiations of the franchise and actually it was supposed to have been completed before we did this, that they were getting a funding investment -- an equity investment with the new firm who was going to have 60 percent interest in A-R cable and that this was going to infuse a great deal of cash into the company in which some debts could be retired and the new upgrade that is going to be completed by the company will be done also as a result of this cash infusion.

Judi Kehoe is here, she looked at this, Sheila looked at it during the negotiations. Sheila, do you want to add anything at this point?

COUNCILWOMAN GALVIN: Basically, this is something that we went over in some detail at the time of the negotiations and that we looked into in terms of expecting it. As you indicated, Ken, we expected this to take place before the agreement was actually signed and I think, that the infusion of capital which had been discussed at that time and which I presume is part of this proposal, is something that should be beneficial not only to A-R but also to the residents of the Town who use cablevision with this proposed upgrade which they are now required to do.

SUPERVISOR RINGLER: Mr. Forma flew in from Long Island to answer any questions. Does anybody have any questions for him?

MR. FORMA: Just one, Ken, please.

COUNCILMAN GUNNER: How was your trip?

MR. FORMA: My trip was marvelous, thank you.

SUPERVISOR RINGLER: Any of the Board have any questions? Sherwood, you had a question.

MR. DAVIES: More a question than a comment, I would hope that there would have been time to consider this but I would like to ask -- prior to the approval of this sale, did the Town Board members feel completely satisfied that all prior annual reports have been submitted and that you are satisfied that the current revenues are correct and complete for prior years? As you well know, the City of Albany collected hundreds of thousands of dollars and are we in that same position? I would just like to add that there has been a lot of comment about... from Town Board officials about upgrading and rates. We have heard very little from the cable company and I am wondering if the consumer can expect over this next year that we will see no rate increases.

SUPERVISOR RINGLER: Gentlemen? Who wants to handle that one?

MR. SMEDE: 1. I can assure you we have paid our share of franchise fees. In fact, we probably paid more than we should if anything.

SUPERVISOR RINGLER: We disagree on that but we won in the end so I am satisfied.

MR. SMEDE: We will upgrade and I think it would be unrealistic to say we won't have any rate increases or rate adjustments. As you know, in any business as our costs increase, we have to pass those along. So, it would be... in the future there will be some rate adjustments, I can assure you somewhere.

SUPERVISOR RINGLER: This year?

MR. SMEDE: Yes.

MR. DAVIES: Oh boy.

COUNCILWOMAN GALVIN: I would like to comment on Sherwood's comment. With respect to the verification, that is something which was a matter of serious concern both before the negotiation started because I don't know whether you are aware, we used to get a one page sheet of paper saying this is what you are getting, which I complained about every time it came up. This time we have gotten 2 pages which I have to say is at least a doubling of the paper and many more lines. We do have a person who is now responsible for this verification. If you will note, right on the top of mine in pink, since I couldn't find my red pen, it says verification. I know that Judi Kehoe has taken on that responsibility and that was one of my questions for Judi. Specifically with respect to the appendix B figures -- did you review those?

MRS. KEHOE: Yes, I have reviewed them.

COUNCILWOMAN GALVIN: And?

MRS. KEHOE: I haven't gone out to the company and traced back all the numbers into their books but on the face of that statement it appears to be correct.

MR. DAVIES: The last 10 years?

COUNCILWOMAN GALVIN: No, this is for the 4th quarter of 1992. Basically, we have been working at trying to get these things verified and I think we have made progress. I am not going to say everything is perfect, believe me.

SUPERVISOR RINGLER: I thought the State did an audit on them at one point in the last couple years.

MR. SMEDE: They do. I think what he is getting at, in Albany where they weren't paying on the pay services, we have always paid on the pay services, franchise fees. So, that is where they got into trouble.

SUPERVISOR RINGLER: When is the last time the State did an audit of your franchise fees to Bethlehem?

MR. SMEDE: I really don't know. I know they have done some but I don't know, couldn't tell you.

MR. FORMA: I can say that wherever the State has done an audit, there has not been any, what I call, material discrepancy. Maybe a very minor change.

COUNCILWOMAN GALVIN: Mr. Forma, to further justify your trip up here and to hopefully shed some light on Sherwood's question -- one point with respect to the fee and figure verification, is that you did go through extensive FCC filings and as a result of those FCC filings, were any questions raised or any problems found? I know you provided us with copies of most of that material which was in order.

MR. FORMA: Since I don't handle the corporate end of dealing with the FCC, I will give a generic answer, which is, usually there are some questions that are asked that are ultimately responded to before any type of deal will gain FCC approval. So, I am sure that there was some bi-play between the two parties -- between Cablevision A-R and the FCC, before the filing was completed.

COUNCILWOMAN GALVIN: But, with respect to your 10-B filings and your filings relating specifically to the finances of the company in terms of revenue paid out, were you questioned at all concerning that, yourself?

MR. FORMA: I am not... I don't believe any type of questions would have gone to that specificity at the FCC level. Usually we... again, Cablevision and A-R have extensive dealings with the State Cable Commission. They also receive monies based on some of our revenues here. So, we are in close contact with them and their financial staff. They periodically do review our operations here or in other areas.

COUNCILWOMAN GALVIN: In Judi Kehoe's memo of February 5th recommending approval of the proposed resolution, she indicates that there was an opinion rendered by the Cable Commission feeling it was appropriate to recommend this to the Board. Do you have a copy of that opinion with you?

MR. FORMA: No, I do not. I am sorry.

COUNCILWOMAN GALVIN: Okay.

MR. FORMA: The Commission approved the transaction at their, I believe, their December meeting and generally where there are a couple of communities -- including Bethlehem, that have not yet acted -- after they have gone through the entire transaction, they will usually issue that type of opinion.

COUNCILWOMAN GALVIN: And, did the Cable Commission review your financial status?

MR. FORMA: Oh, they certainly did. Their financial staff reviews all transactions of this nature quite extensively. They do ask many questions before having any type of vote or final resolution.

COUNCILWOMAN GALVIN: Judi, do you have a copy of that opinion?

MRS. KEHOE: I don't have a copy, that was in talking with the attorney that handled this at the Commission apparently they had approved that. Excuse me?

COUNCILWOMAN GALVIN: John Grow.

MRS. KEHOE: Yes.

COUNCILWOMAN GALVIN: And, based on the information that you received, was there an indication that the revenues paid over to the Town of Bethlehem had been reviewed by the Cable Commission?

MRS. KEHOE: He did not mention that specifically, no. I can confirm that with him tomorrow.

COUNCILWOMAN GALVIN: I would appreciate that since the question has been raised and I would like to know the extent to which they have reviewed it.

SUPERVISOR RINGLER: We can request them to do an audit at any time, incidentally.

COUNCILWOMAN GALVIN: Yes.

SUPERVISOR RINGLER: If one hasn't been done maybe we should.

MR. FORMA: That is fine.

SUPERVISOR RINGLER: Okay. Entertain a motion to pass that resolution.

The motion was made by Ms. Galvin, subject to the proposed request for an audit by the State, which you have just referred to.

SUPERVISOR RINGLER: Subject to request, you don't want to review it before this is...?

COUNCILWOMAN GALVIN: I think that the audit would resolve the problems. The problems will go back to the original contract.

SUPERVISOR RINGLER: Okay, fine. Okay, you would like to have the last... since the last time they reviewed these things audited.

COUNCILWOMAN GALVIN: Yes, that is right.

The motion was seconded by Mr. Gunner to adopt the following resolution:

TOWN OF BETHLEHEM  
(ALBANY COUNTY)  
RESOLUTION  
CONSENTING TO TRANSFER  
OF CABLE TELEVISION FRANCHISE INTERESTS

Before the  
Town Board of the Town of Bethlehem  
Albany County, State of New York

Adopt  
Resolution  
Consenting  
To Transfer  
of Cable  
Television  
Franchise  
Interests

WHEREAS, the Town of Bethlehem heretofore has granted a franchise for the operation of a cable television system within the Town to A-R Cable Services - NY, Inc. ("A-R"), and has recently granted a renewal of said franchise for an additional term of ten years, and has entered into a Franchise Agreement with A-R, dated September 25, 1992, which Franchise Agreement describes certain terms and conditions applicable to A-R's exercise of said renewed franchise;

WHEREAS, Subdivision (B) of Section 21 of said Franchise Agreement provides as follows:

(B) No change in control or controlling interest of A-R, the Cable Television System or the franchise granted herein shall occur after the effective date hereof, by act of any person holding control of the A-R, the Cable Television system or the franchise granted herein, by operation of law or otherwise without the prior written consent of the Town which will not be unreasonably withheld or delayed. For purposes of this subdivision, the term "control" shall mean "effective majority control or actual working control;" and the term "controlling interest" shall include any ownership interest, including beneficial ownership, with a direct or indirect interest by any person or group of persons equal to ten percent (10%) of the ownership of A-R or any successor-in-interest thereto.

WHEREAS, a restructure has been proposed of the ownership and control of A-R's parent company, A-R Cable Services, Inc., pursuant to the provisions of the Letter Agreement dated February 12, 1992, among Warburg, Pincus Investors, L.P. ("Warburg"), Cablevision Systems Corporation ("CSC"), and A-R Cable Services, Inc., and the attachments and amendments thereto ("Letter Agreement"), and consistent with the order of approval of said restructure adopted by the New York State Commission on Cable Television ("NYSCCT") on January 6, 1993, which proposed restructure would result in Warburg

acquiring a "controlling interest" in A-R Cable Services, Inc. in exchange for a substantial investment in A-R Cable Services, Inc.;

WHEREAS, A-R has requested that the Town grant its written consent to the above described restructure of A-R Cable Services, Inc. pursuant to the Letter Agreement and consistent with the January 6, 1993 approval of the NYSCCT; and

WHEREAS, the Town has given due consideration to the above-referenced request of A-R for consent to the above described restructure of A-R Cable Service, Inc., and has determined that such consent would be appropriate and consistent with the public interest;

NOW, THEREFORE, BE IT RESOLVED, That the Town of Bethlehem does hereby grant its consent to the proposed restructure of A-R Cable Services, Inc. pursuant to the Letter Agreement, and that the Town Clerk is hereby authorized and directed to provide A-R with a written confirmation of this Resolution and such consent.

The resolution was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.

Noes: None.

Absent: Mr. Webster.

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SUPERVISOR RINGLER: The only question I have got, I don't want to have to delay in notifying them that we passed this because their attorneys are waiting for a closing as I understand it.

MR. FORMA: That is correct, we would appreciate it that this be approved but also that a desk audit be requested.

SUPERVISOR RINGLER: Be requested.

MR. FORMA: And, you have rights under the franchise.

SUPERVISOR RINGLER: Okay.

ATTORNEY KAPLOWITZ: Just so it is clear, is it clear that we are passing it then without any conditions?

COUNCILMAN GUNNER: I have a question.

SUPERVISOR RINGLER: Right.

MR. SMEDE: Yes, I was going to say...

SUPERVISOR RINGLER: Right, this resolution is passed without a condition.

COUNCILWOMAN GALVIN: Since we are now making it... it is subject to our making the request for the desk audit.

SUPERVISOR RINGLER: The motion, as I understand it, said we passed this resolution but you are also making a motion that I request a desk audit.

COUNCILWOMAN GALVIN: That is correct.

SUPERVISOR RINGLER: Fine.

MR. SMEDE: Yes, separate the two of them.

MR. FORMA: That is appreciated, thanks.

SUPERVISOR RINGLER: Charlie, you had a question?

Discussion  
Cable Rates

COUNCILMAN GUNNER: Yes, I just would like to ask a question -- when you were asked the question by a member of our citizens concerning any rate hikes, you said in all probability there would be one. Have you considered anything... do anything... will that hike be in basic services or paid services or across the board?

MR. SMEDE: Well, we are in the process right now of determining how we are going to live with the new federal law and how we are going to provide a broadcast basic, how we are going to break out our programming and all of these things are being decided right now and we will have a letter to the Town explaining exactly what we are doing before we do it. Right now it would be a little premature for me to say anything because I really...

MR. FORMA: There currently is a rule making for the FCC. Rates for cable services will be... for basic service will specifically be subject to municipal regulation. Rates for other services, beyond basic, will be subject to review for companies that are out-of-line with a norm. And, I can't go any further on that because I don't know what the FCC is going to determine. There are rule makings right now. We will know very particularly on April 4 when the FCC issues its rule making.

SUPERVISOR RINGLER: While you are talking about that, is that why I see certain companies that are making a basic plan available that basically is the 3 stations that you can get without cable for less money and is that the only thing that is going to be regulated?

MR. FORMA: That is the -- the statute basically and -- yes Cablevision is also going to be doing something like that and it will be a little bit more than three channels but it is basic television reception service as something before which we come to this community for approval and all other services will be judged by what our prevailing rates within the industry -- the FCC will be reviewing companies that are out-of-line and, you as a municipality, if you feel that let's say for comparable service, Albany is charging twenty-five dollars while Cablevision is charging twenty-eight or twenty-nine -- you can certainly say the rates are out of proportion here, please review this to determine whether the rates should be rolled back. So the new Cable Act provides a great deal more regulatory authority and review than had ever applied to cable TV even back in the '70s and early '80s when services were regulated.

ATTORNEY KAPLOWITZ: Am I correct that the 77 channel idea was something that did not originate with the cable company?

MR. FORMA: Yes and no, actually. Those guidelines are channels that the State has been proposing for several years at specific numbers but Cablevision has always been increasing in capacity. We've been in many of our areas putting in fiber optics. We think that the 77 channels with some of the other technology we are talking about -- known as channel compression -- will even have much more than that with some of the new technology that we have been working with for the last couple of years.

ATTORNEY KAPLOWITZ: Is there any rhyme or reason to the number 77?

MR. FORMA: That is basically a figure based upon the number of megahertz contained in a coaxial cable.

SUPERVISOR RINGLER: You asked.

MR. FORMA: Frankly, getting away from coaxial cable, getting into fiber optics, that's not really a limitation these days.

ATTORNEY KAPLOWITZ: It won't be, yes, thank you.

SUPERVISOR RINGLER: Go ahead, Charlie.

COUNCILMAN GUNNER: One other question -- if there will be a rate raise for the basic cable, that would affect the senior citizens?

MR. SMEDE: Probably in some way it will affect them. See, that's what we're not sure of because when you say basic --

basic under the probably proposed changes we make -- basic will change. So, you're going to have a different layers of programming. So, the terms that you're used to referring to as basic being this many channels is going to change. So, the answer to your question is, probably you'll keep the same percentages for senior citizens rates, they'll still get a discount but it will change in some means and in some cases people will be able to get services for less money. So, it really -- I can't answer the question.

COUNCILMAN GUNNER: I have one other thing, just a follow-up to that answer, all right, that is acceptable to me at this point. Would be that you will also -- isn't it true that if a Senior Citizen takes any paid services, they don't get the discount on the basic?

MR. SMEDE: That's true.

COUNCILMAN GUNNER: And yet we have many Senior Citizens who can do nothing except sit and watch TV and you don't even give them the regular basic. Now they may be making sacrifices in something else in their living levels so they can be entertained during the day rather than sit there alone and yet, you are not going to give it to them for basic if they take a paid service. Is that true or not?

MR. SMEDE: I am not sure I know what you are asking.

MR. FORMA: Since a service like HBO is a discretionary service, our position has been that's... cable TV we feel is not... taking an HBO type service is really a luxury purchase, that's a discretionary purchase compared with some of the other services that we're talking about. So, that's been our position with respect to who is eligible for the Medicaid discount.

COUNCILMAN GUNNER: I think there could be a better way for you... and I'd like you to know it so when you discuss things among your groups when you are going to refigure things, I think you should consider giving them the break just like every other senior citizen would get on the basic service. I'm not asking you for it on the paid services and it's like, yes...

MR. FORMA: I can guarantee you that this issue has been discussed both here and in many other municipalities.

MR. SMEDE: Yes, Ken... yes.

COUNCILMAN GUNNER: Well, I'll bring it up again. I'll be around a while.

SUPERVISOR RINGLER: We, as Charles pointed out during the negotiations -- although this is not an area that is subject to negotiations, we strongly tried to convince them that they should do that during our sessions and I think I had George convinced. He was on our side for awhile but we couldn't convince the higher management in Long Island but the point being and I think Karen is here someplace and she will attest to it very much and she's pushed it for the seniors as well is that our seniors don't consider that a luxury because this may be the only form of entertainment they might have. They can't go out a lot so, you know...

MR. FORMA: Well, in trying to describe a luxury, the thought being an HBO, Showtime and Cinemax as opposed to traditional payment of cable.

SUPERVISOR RINGLER: I know, a luxury for them would be to pay \$7.00 and go to a theater. To stay home and watch HBO is not a luxury and if you can give them a discount, once again we are suggesting you look at it.

COUNCILMAN GUNNER: Just on the basic.

MR. FORMA: We will advise our management.

COUNCILMAN GUNNER: One other thing, you may want to at least extend it to those people who we know are on the aid for taxation programs in our Town because they would be definitely poorer individuals. That is something else you could look at.

MR. FORMA: Yes, thank you, I think we can look at those.

SUPERVISOR RINGLER: Thank you.

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SUPERVISOR RINGLER: Next item on our agenda is a presentation, a report from the American With Disabilities Act. Let me read the introduction to that report and get it started.

Presentation  
and  
Discussion of  
Americans  
With  
Disabilities  
Act

The Americans with Disabilities Act was signed into law by President Bush on July 26, 1990. This law establishes a Federal prohibition of discrimination against persons with disabilities in employment. It ensures equal access for persons with disabilities to public accommodations, public services, transportation and communications. Many of the concepts contained in the Americans with Disabilities Act have their origin in the Rehabilitation Act of 1973. Despite its importance, the Rehabilitation Act of 1973 is a law of limited scope. The statute prohibits discrimination only by Federal agencies, entities that have contracts with the Federal government and recipients of Federal financial assistance. Until the ADA, no Federal law prohibited discrimination by the following: State and Local government agencies that do not receive Federal aid, places of public accommodation, or employers in the private sector.

The ADA protects individuals with disabilities which include a wide range of physical and mental impairments. Generally these impairments substantially restrict a person's ability to engage in an important life activity including but not limited to walking, seeing, hearing, speaking, breathing, learning, caring for one's self, performing manual tasks and working. It also protects individuals with a history of disability, individuals who look or act differently and individuals who have an association with someone who is disabled.

The ADA requires that reasonable accommodations be made for those with disabilities. The law requires the Town of Bethlehem and all State and local governments to comply with the law and complete a self-evaluation of employment practices, programs and services, facilities and communication methods.

I put together a Committee last summer to do the self-evaluation for the Town of Bethlehem. Dave Austin was the Chairperson for that Committee. We had residents Peter Crowley, staff Karen Pellettier, John Flanigan, Mark Becker, Bernie Kaplowitz and Nan Hinman work on it and put together our self-evaluation plan looking at all our programs and facilities and so forth and giving us a direction that we, as a Town, should be taking. The plan was presented to me on January 26th, the day that it was due and my congratulations to Dave and his Committee because as I understand it, we are the only agency in the County that we know of, that has completed the self-evaluation plan on a timely basis. And, tonight, I have asked Dave to give us a brief overview. I think some of your Committee members are here and those that are there, I want to thank you for your fine work. Dave, a brief presentation of what you have in your report here.

MR. AUSTIN: Thanks, Ken.

SUPERVISOR RINGLER: There are a couple copies here if anyone would like to look at them while Dave is going through this.

MR. AUSTIN: We have them up here. I just would like to start by clarifying a few things in the Act itself. There are 5 titles in the Americans with Disabilities Act. Title 1 prohibits discrimination in employment by private and public entities with 50 or more employees. Title 2 prohibits discrimination in

programs, activities and services provided by public entities such as the Town of Bethlehem. Title 3 prohibits discrimination in public accommodations provided by the private sector. Title 4 prohibits communication discrimination amongst telecommunication companies and Title 5 is a miscellaneous provision that describes how other laws relate to the ADA.

After the introductory section in the self-evaluation plan, the second section of our plan deals with facilities and on page 4 we start with the transitional plan for structural changes or other modifications to existing facilities. This is something that is required in the ADA for municipalities to complete, if they have 50 or more employees. What the Committee did is, we had a check list based on the facility guidelines that are established in the Americans with Disabilities Act and we went through each facility with our check list and we described -- we used these forms to describe the facility, the barriers that were present, problems we had with the different facilities, we discussed and identified methods that we would use to make the facility accessible, the Department responsible for implementation and the completion date. Those are all things that are spelled out in the law that have to be included in your transitional plan. We included approximate cost as an addition to that which is not required by the law but we thought it would help the Board see how much things are approximately going to cost.

The Committee made recommendations that they thought were the most reasonable based on a number of factors -- number of people to be using a facility, the amount of money it costs, was there a viable option other than replacing something. The Town has until January 26, 1995 to complete its structural modifications. I think the law states that those are the larger items. Immediate things that are not expensive and can be taken care of, should be done immediately. That goes through page 58.

On page 59, the Committee developed a statement regarding the design and construction of new facilities which pretty much follows what the law states as far as the Town's obligation for new construction.

The next section deals with program accessibility. The law states that no qualified individual with a disability shall be excluded from participation in or be denied the benefits or service programs and activities of a public entity unless the action would result in a fundamental alteration of the nature of a service program or activity or would result in an undue financial or administrative burden. We -- on page 61, we identify some of the deficiencies in our programs. This includes all programs that are being provided by the Town through the various Departments. Where it says non-structural solutions, it probably should just say solutions because we do have some structural recommendations in that section.

We divided the programs or at least the accessibility recommendations into 5 general categories -- mobility, hearing, visual, psychological, and developmental. Again, we felt... our recommendations are we felt were reasonable.

Next section which starts on page 68 is regarding communication. The law states that the Town must communicate as effectively with people with disabilities as they do with people who are not disabled. The Town... the Committee has developed a policy, a communication policy, on the ways the Town communicates with the public. That would be through telephone, public meetings, publications and brochures and advertising.

Next section deals with employment. Because of the size of our Town, we must comply with the rules in Title I of the Act and also Title II. Some of the smaller municipalities with less than 15 employees, do not have to comply with Title I but there are still some employment provisions in Title II. The ADA prohibits discrimination on the basis of disability against

qualified individuals with disabilities and it also requires the Town to make reasonable accommodations for applicants and employees. One of the main points of Title I, actually two main points of all Title I is making accommodations for disabled employees and applicants and also the other important point as far as hiring, is the question can a person with a disability perform the essential functions of a job with or without a reasonable accommodation? The Committee developed an employment policy based on the Act. We had a category... the categories we have are reasonable accommodations, medical exams, job descriptions and essential job functions, advertising, interviewing, employment application, testing, other benefits and safety. Those are all categories of employment that are addressed in the ADA.

The last section is a grievance procedure and employee designation. The ADA requires municipalities with 50 or more employees like the Town to develop a grievance procedure so grievances can be handled locally without having to go to the Federal level. Also, we must designate an employee to handle grievances and inform other employees of the Town about the provisions of the ADA.

SUPERVISOR RINGLER: I am glad to see you volunteered for that job already, Dave.

MR. AUSTIN: I was appointed. That is about it.

SUPERVISOR RINGLER: That is well done, Dave. Does anyone have any questions of the Board tonight?

COUNCILMAN GUNNER: No, it can wait.

COUNCILWOMAN GALVIN: I have a couple.

SUPERVISOR RINGLER: Okay.

COUNCILWOMAN GALVIN: One of them specifically goes to the grievance procedure -- Bernie, did you go over the grievance procedure in here in detail? I have a couple of questions.

ATTORNEY KAPLOWITZ: When we were working on it, not since then.

COUNCILWOMAN GALVIN: Okay. One of the questions that came to mind when I was going over it was in sub 1, there is a provision for filing of a complaint verbally. But, there isn't any provision for requiring Dave or whoever is acting in the capacity of accepting a complaint, to reduce it to writing so that there is a record made of it. That was one of the things because it could be something that was said verbally and it was not quickly reduced to writing or properly reduced to writing, or necessarily reduced in the form that the complainant might feel was appropriate. If it was verbally, reduced to writing or taped... a tape made of the complaint. Something to preserve it in that form.

ATTORNEY KAPLOWITZ: I would assume that somebody would do that, whoever is accepting the complaint, either Dave or whoever the Town Board appoints. The law requires you to have a grievance procedure. There is a section on accepting complaints. I agree with you, if you have a complaint it is oral and nobody does anything with it, you don't have anything to work with but you could add something to require somebody to write it down but I don't think that's really part of the grievance procedure.

COUNCILWOMAN GALVIN: Another thing, was in sub 4 over on page 78, was that a written determination as to the validity of the complaint and the description of the resolution if any would be issued and a copy forwarded. I think... I have a problem with the if any, I think there has to be a resolution of it once the complaint is filed. Something has to be done. That leaves it open so that there might not be a resolution, nothing might be done.

ATTORNEY KAPLOWITZ: I think we are playing with words. I am not sure if any refers to the written determination or if it refers to the description of the resolution, I guess. Written determination as to the validity of the complaint...

COUNCILWOMAN GALVIN: Well, I have a few others, rather than spend our time here tonight going through them, I would be happy to list them.

SUPERVISOR RINGLER: Why don't you do it that way because as I was going... and the Committee suggested and I agree with it, I think what I would like to recommend that we do now is give a month, let this available in the library, in the Town Clerk's office and so forth and then at our March 10th meeting would be to have a public comment period at the beginning of our meeting, if that is agreeable to the Board, I am not calling it a public hearing because it is not required by any law or anything like this. But, an open, very similar to one of our public hearings, as a matter of fact I may even put a little ad in the Spotlight telling the public that we are doing that so that we can get more input on this document before we make a determination as to how we are going to adopt it and if you have language problems regarding the legal part of it, why don't you get them to Bernie in the interim and let him look that over and make those changes.

COUNCILWOMAN GALVIN: Fine.

SUPERVISOR RINGLER: Okay.

COUNCILMAN GUNNER: My questions, I think I will get together with Dave. I think they are a little technical.

SUPERVISOR RINGLER: Okay. The one question I guess, Dave, because the press is here and the people are here -- what is the total cost of the changes that will have to be made to our physical structures and so forth?

MR. AUSTIN: Total cost of things that are actually in the plan, where you see a cost associated with it, comes to \$61,250. Most of that is for a... that is including a \$40,000 stair lift to the second floor of this building. That is not... the Committee has recommended that or another option, which there has been a proposed addition that has gone to the Capital Projects Committee which would include a full service elevator. That would be a \$400,000 project. But, the total costs, approximately \$61,000. in the report that does not include any future needs for auxiliary aids or any modifications for employees or anything like that.

SUPERVISOR RINGLER: That is just what improvements to bring us up to where we should be at this point in time.

MR. AUSTIN: Yes, right.

SUPERVISOR RINGLER: Good, okay.

ATTORNEY KAPLOWITZ: Anything we do such as advertising notices, what have you, should be documented somehow in the file. It is a funny law in that it doesn't say if you violate it you are going to be fined \$100. It is left up to the public by giving individuals who feel they are discriminated against a cause of action to sue the Town. That is the enforcement, if you don't comply, you are going to get sued.

MR. AUSTIN: Right.

ATTORNEY KAPLOWITZ: And, a violation of the statute is probably evidence of negligence so it is going to be difficult for municipalities who don't comply. But, there is nothing that says the Police are going to come out and give you a ticket or we are going... you know, it is unusual in that sense. It is strictly left up... enforcement is left up to the law suits.

MR. AUSTIN: The law doesn't define what's reasonable and what is an undue financial or administrative burden either.

ATTORNEY KAPLOWITZ: Right.

MR. AUSTIN: It gives some examples in the law.

ATTORNEY KAPLOWITZ: My point is, in the event that we are ever sued, the more we document what we have done, the better off we are going to be as far as trying to defend the Town and portray the fact that we have done what is reasonable.

SUPERVISOR RINGLER: Hopefully, the work that this Committee has done, we won't get sued.

MR. FLANIGAN: Yes, but we have been doing pretty well... I mean there are some things that should be done and the second floor access is one thing. But, people who have to come say to my office who have a disability, we meet them downstairs so there is another accommodation for these people. It is there.

ATTORNEY KAPLOWITZ: What about the person who wants to work upstairs?

MR. FLANIGAN: That is another story but I am saying... we are doing it, I don't want them to think we aren't doing it now.

ATTORNEY KAPLOWITZ: That is the problem.

MR. FLANIGAN: We make all the accommodations. We will meet them at their houses. We go out and see the elderly people out in the community and that is what we are here for I guess. We have been doing it. Just so that they realize that this is something we are looking into doing because we are doing it now.

SUPERVISOR RINGLER: Okay. I don't really need a motion to do that. I will just put that on the agenda and advertise it because it is not a legal public hearing. But, on March 10th, 7:30 pm we will have public comment on this report.

ATTORNEY KAPLOWITZ: We are not adopting the law but maybe it would be wise at that meeting, if everything goes well, to pass a resolution adopting this as our self-evaluation plan, so to speak.

SUPERVISOR RINGLER: Oh, yes. We would have to do that eventually. Yes, I would recommend that the Board adopt this as our plan at some point. Okay. Thank you, Bernie. Thank you everybody. David, nice job.

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 SUPERVISOR RINGLER: Okay, next I would like to acknowledge receipt of the quarterly franchise fees from Cablevision for the 4th quarter of 1992 in the amount of \$31,713. and that is with our new form as you pointed out.

Acknowledge  
 Receipt of  
 Quarterly  
 Franchise Fees  
 from  
 Cablevision

COUNCILWOMAN FULLER: Two pages.

SUPERVISOR RINGLER: Well, you have more information on it.

COUNCILWOMAN GALVIN: It doubled.

COUNCILMAN GUNNER: Doubled it.

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 SUPERVISOR RINGLER: Next I would entertain a motion to accept the resignation of Janet Burns in the Building Department with regret. Janet is going to retire.

Accept  
with regret  
Resignation  
of Janet  
Burns

The motion was made by Ms. Galvin to accept the resignation of Janet Burns with regret. The motion was seconded by Mrs. Fuller and passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

COUNCILWOMAN GALVIN: I would like to make a comment. Having been on the Zoning Board and served there with Janet, I think that Janet has performed admirably under some very adverse circumstances and certainly deserves comment for her excellent service.

SUPERVISOR RINGLER: Now she will be running ambulance calls full time.

MR. FLANIGAN: That is right.

TOWN CLERK NEWKIRK: She is enjoying every minute of it. I saw her last night. She misses the people.

MR. FLANIGAN: Well, they have their new building now. That is why it is another...

Approve  
Attendance  
10 hour  
safety  
course  
John  
Newkirk

SUPERVISOR RINGLER: Next I have a request from Gregg Sagendorph, Highway Superintendent, for approval of John Newkirk, Highway Foreman and Safety Officer, to attend a 10 hour safety course for highway contractors with registration fee paid of \$125.

The motion was made by Mr. Gunner and seconded by Ms. Galvin that John Newkirk, Highway Foreman and Safety Officer, be and he hereby is authorized to attend a 10 hour safety course for highway contractors with registration fee paid. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

Go To Bid  
Turf  
Utility  
Vehicle  
Parks &  
Rec. Dept.

SUPERVISOR RINGLER: Next I have a request from Mr. Sagendorph, Highway Superintendent, for approval to go to bid for the purchase of one turf utility vehicle for the Parks Department and one 4-wheel drive suburban hardtop for the Highway Department.

The following resolution was offered by Mrs. Fuller and seconded by Mr. Gunner:

WHEREAS, the Town desires to advertise for bids for one turf utility vehicle for the Parks and Recreation Department and one 4-wheel drive suburban vehicle for the Highway Department, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 17th day of February, 1993 and that bids be received up to 2:00 p.m. and 2:15 p.m. on the 12th day of March, 1993 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster

SUPERVISOR RINGLER: Next I have a recommendation from Mr. Sagendorph, Highway Superintendent, for award of the bid for guide rails to Chemung Supply Corp. of Elmira, the low bidder.

Award Bid  
Guide Rails

COUNCILWOMAN GALVIN: Can I ask a generic question for the next multiple items where it is award of bid, have those bids, the submissions been reviewed by Bernie and approved?

ATTORNEY KAPLOWITZ: Most of them I have seen and several I discussed in some detail with Gregg.

COUNCILWOMAN GALVIN: Any problems?

ATTORNEY KAPLOWITZ: No, we had a couple of...

SUPERVISOR RINGLER: That one is not on the agenda tonight.

ATTORNEY KAPLOWITZ: Oh, all right.

MR. SAGENDORPH: That will be the next meeting.

SUPERVISOR RINGLER: We have one where there is a tie bid.

ATTORNEY KAPLOWITZ: There appears to be a tie bid, that kind of thing. The rest are all apparently in order.

SUPERVISOR RINGLER: Offer a motion to approve that bid?

The motion was made by Ms. Galvin and seconded by Mr. Gunner to award the bid for guide rails as recommended by Highway Superintendent, Gregg Sagendorph, to Chemung Supply Corporation, Elmira, New York at the submitted prices. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

SUPERVISOR RINGLER: Next I have a recommendation from Mr. Sagendorph for award of bid for motor oil to Polsinello Fuels, Rensselaer.

Award Bid  
Motor Oil

The motion was made by Mrs. Fuller and seconded by Ms. Galvin to award the bid for motor oil for the year 1993 to Polsinello Fuels, Rensselaer, NY, as recommended by Highway Superintendent, Gregg Sagendorph, at the submitted prices. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

SUPERVISOR RINGLER: Next I have a recommendation from Mr. Sagendorph for award of bid for rental of large track excavator to Robert H. Finke, Selkirk.

Award Bid  
Rental of  
Large Track  
Excavator

The motion was made by Ms. Galvin and seconded by Mr. Gunner to award the bid for rental of large track excavator to Robert H. Finke, Selkirk, NY as recommended by Gregg Sagendorph, Highway Superintendent, at the submitted prices. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

Award Bid  
Topsoil

SUPERVISOR RINGLER: Next I have a recommendation from Mr. Sagendorph, Highway Superintendent, to award the bid for topsoil to Peter Frueh, Feura Bush, the low bidder again.

The motion was made by Mrs. Fuller and seconded by Ms. Galvin to award the bid for topsoil to Peter Frueh, Feura Bush, NY as recommended by Gregg Sagendorph, Highway Superintendent, at the submitted price. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

- - -

COUNCILWOMAN GALVIN: What is run-of-the-bank?

MR. SAGENDORPH: Dug right out of a pit. It is not processed at all.

COUNCILWOMAN GALVIN: Okay.

MR. SAGENDORPH: It is virgin gravel.

COUNCILWOMAN GALVIN: Just curious.

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Award Bid  
Gravel

SUPERVISOR RINGLER: Next I have a recommendation from Mr. Sagendorph for award of bid of all types of item IV gravel and run-of-bank gravel loaded on Town trucks, that will be to Troy Sand and Gravel and run-of-the-bank gravel hauled to any stock pile or road construction project to R.J. Valente, Troy.

COUNCILWOMAN GALVIN: Now that I know what it is --

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that run-of-bank gravel loaded on Town trucks be awarded to Troy Sand and Gravel, Troy, NY and run-of-bank gravel hauled to any stock pile or road construction project be awarded to R.J. Valente, Troy, NY as per Mr. Sagendorph's recommendation, at the submitted prices. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

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Award Bid  
Washed  
Crushed Stone

SUPERVISOR RINGLER: Next I have a recommendation from Mr. Sagendorph, Highway Superintendent, to award the bid for washed crushed stone to Callanan Industries of South Bethlehem.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the bid for washed crushed stone be awarded to Callanan Industries, Inc. of South Bethlehem, NY at the submitted prices. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

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Approve  
Minutes  
Jan. 4,  
Jan 13, 1993

SUPERVISOR RINGLER: Next I would entertain a motion to approve the Town Board minutes of January 4, and January 13, 1993.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to approve the Town Board minutes of January 4 and January 13, 1993 as submitted. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.

Absent: Mr. Webster.

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SUPERVISOR RINGLER: Next I would entertain a motion for the assignment of house numbers from the Engineering Department for the premises currently located at 36 North Helderberg to become 95 Carstead Drive in Slingerlands at the request of the owner and 21 Leonard Drive for a new residence at the end of Leonard Drive. These are both reviewed by Terri Ritz and he concurs.

Assign  
House Nos.  
36 Helderberg  
to 95 Carstead  
and  
21 Leonard  
Drive

The motion was made by Ms. Galvin and seconded by Mr. Gunner that approval be given for the assignment of 95 Carstead Drive to the premises currently known as 36 North Helderberg Parkway in Slingerlands and the assignment of number 21 Leonard Drive for a residence located on Leonard Drive to become effective immediately. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

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SUPERVISOR RINGLER: Next I have a request from the Town Clerk for approval of attendance of Deputy Town Clerks Picarazzi and Johnson at a seminar for business grammar and usage to be held March 30th in Albany with registration of \$98. each paid.

Approve  
Attendance  
Deputy  
Town Clerks  
Seminar  
Business  
Grammar and  
Use

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to approve the attendance of Deputy Town Clerks Picarazzi and Johnson at a seminar for business grammar and usage to be held March 30, 1993 in Albany, New York with registration fee paid. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

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SUPERVISOR RINGLER: Next I have a request from Mr. Secor to send 3 of his employees to that OSCA training seminar that Gregg is sending his people to as well.

Approve  
Attendance  
3 DPW  
Employees  
to OSCA  
Training  
Seminar

The motion was made by Ms. Galvin and seconded by Mr. Gunner to approve the attendance of 3 Department of Public Works employees at the OSCA 10 hour course for construction supervisors to be held February 18 and 19, 1993 at Glenmont, NY with registration fee paid. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster

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SUPERVISOR RINGLER: Next is a request from Mr. Hahn, Receiver of Taxes, for reimbursement of overpayment of water rents for the month of January totaling \$5.93.

Refund  
Water Rents  
Jan. 1993

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to approve the reimbursement of overpayment of water rents for the month of January as per the list submitted by Mr. Hahn dated February 5, 1993. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

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Approve  
 Attendance  
 Det. Cox  
 and  
 M. Sgt. Roberts  
 at Capital Dist.  
 Fire Invest.  
 Assoc.  
 Seminar

SUPERVISOR RINGLER: Next I have a request from the Chief of  
 for of Detective Cox and Master Sergeant Roberts for attendance  
 at the Capital District Fire Investigators Association Winter  
 Seminar to be held February 19-21, 1993 in Albany with registra-  
 tion fee paid at \$30. per officer and transportation by police  
 M. Sgt. Roberts vehicle.  
 at Capital Dist.  
 The motion was made by Ms. Galvin and seconded by Mrs. Fuller  
 to approve the attendance of Detective Cox and Master Sergeant  
 Roberts to attend the Capital District Fire Investigators Asso-  
 ciation Winter Seminar to be held February 19-21, 1993 in Alba-  
 ny with registration fee paid and transportation by police  
 vehicle. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
 Noes: None.  
 Absent: Mr. Webster.

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SUPERVISOR RINGLER: Mr. Gunner.

Discussion  
 Sales Tax

COUNCILMAN GUNNER: Yes, during the past week in the Times  
 Union and the Sunday paper and our local paper, The Spotlight,  
 comments by our Supervisor that he endorses -- I don't know  
 whether that is the correct word, Ken, but I think that is the  
 meaning -- the continued increase of the sales tax. I do want  
 to make public that this particular Board Member is not of that  
 decision. I see no reason to continue it and I haven't been  
 getting proper explanation by any of the authorities from the  
 County or otherwise or reasons enough -- to that point, I be-  
 lieve that politicians should say what they mean, mean what  
 they say and if they are going to change their minds that they  
 give good reasoning so people can adjust accordingly. And, I  
 think our citizens would do that if we are given that. That's  
 it.

SUPERVISOR RINGLER: Just a comment, I know that some of the  
 politicians on the County level seem to be changing their  
 minds...

COUNCILMAN GUNNER: Yes, my point.

SUPERVISOR RINGLER: But, I must say that I said right from the  
 start that it doesn't make sense to make this temporary as long  
 as they continue making cuts. You know, you have to get the  
 cuts that are necessary but my analysis was in discussions and  
 my thoughts for our community is that -- you know -- we need  
 additional revenues, inflation hits us as well as anybody. We  
 have lost a lot of State revenue and perhaps, the sales tax is  
 better than the property tax but you and I can discuss another  
 time. The only point I am going to make is some of those other  
 people wavered but I never did, as you know.

COUNCILMAN GUNNER: I am well aware of that. That wasn't my point, at all.

SUPERVISOR RINGLER: Okay. I had said the same things to them  
 at that time. I said, you know, don't try to say you are only  
 going to try and do this for a year and then come back and say  
 you are not. Anybody else like to make any comments? There  
 were none. Anyone like to bring anything else to the attention  
 of the Board?

Discussion  
 Dead Bolt  
 Locks

MRS. ALLIGER: Well, just as one who lives in an apartment, I  
 wondered, I think I saw an article whereby in Albany, the apart-  
 ment owners were supposed to put dead-bolt locks on the apart-  
 ments and I wondered... I mean what they think about it out  
 here in this Town.

SUPERVISOR RINGLER: Mr. Flanigan, is that a requirement any place?

MR. FLANIGAN: No, it is not a requirement.

MRS. ALLIGER: It is not a requirement.

SUPERVISOR RINGLER: Is it a requirement in Albany?

MR. FLANIGAN: It could be because they have a housing coalition that pushes things but I couldn't tell you one way or another but it is not a Code enforcement.

SUPERVISOR RINGLER: Is your owner fighting putting a dead-bolt lock on your -- have you talked to him about it?

MRS. ALLIGER: Not really but I just wondered because there are a few apartments out here and where there is an increase in robberies and so forth.

SUPERVISOR RINGLER: Well, perhaps through our Police Department, we make all kinds of recommendations regarding safety and things like that that we can make some contacts with some of the apartment owners and make that kind of a recommendation. Chief would you...

CHIEF LACHAPPELLE: The dead-bolt lock with a 1" throw into the frame is safer than the conventional locks. They are more privacy devices than locks. Anybody that is interested can call the Police Department and have some crime prevention personnel come over and do a survey of your home with recommendations.

SUPERVISOR RINGLER: Glad to help you out. Maybe we could look your apartments over and make some recommendations. I would entertain a motion to conduct an executive session at the end of this meeting to discuss pending litigation and land acquisition.

The motion was made by Mrs. Fuller and seconded by Ms. Galvin to hold an Executive Session at the end of the regular meeting to discuss pending litigation and land acquisition. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

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SUPERVISOR RINGLER: Anything else? There was nothing. Entertain a motion to adjourn.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to adjourn the regular Town Board meeting at 8:15 p.m. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Gunner, Ms. Galvin, Mrs. Fuller.  
Noes: None.  
Absent: Mr. Webster.

*Kathleen A. Newkirk*  
Town Clerk

EXECUTIVE SESSION

There was no action at the Executive Session.

Executive  
Session