

TOWN BOARD  
FEBRUARY 12, 1992

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 noted the first item on the agenda was a discussion of the public hearing held in the matter of Local Law No. 1 of 1992, extending Local Law No. 1 of 1990, Interim Development Limitations Act. Mr. Ringler noted the staff had submitted a report in regard to comments made at the public hearing. Various questions were asked of Mr. Lipnicky and Mr. Secor in regard to this proposal by the Board members. Discussion included the changes in regard to the language of 80 percent of the Certificates of Occupancy being issued and what period of time would be beneficial to what was trying to be attained by this change.

Questions were also raised with regard to the LUMAC process due to the fact this was all tied back to LUMAC. Mr. Lipnicky said there will be a progress report for the next Town Board meeting. He said some time was lost because of the 6 month time that the Deputy Town Planner position was not filled. He said the next target date is in March for completion of the existing conditions report. Mr. Lipnicky was asked about the overall target date for completion. He said LUMAC expects they can make the time up as they move along. He was asked if any of the questions raised with regard to this act have resulted in any input from LUMAC in regard to the proposed changes. Mr. Lipnicky said there has not been any formal input, stating it was discussed at the last meeting. He said there was some concern with regard to an amendment which would allow somebody to come back and apply or at least start the process rolling before the threshold is made. The second point raised was that in the long run it could potentially be a benefit to have a variance procedure in this, in the event the Town was challenged on the temporary taking type of issue.

Mr. Lipnicky was also asked if there was any further report in regard to potential conflict with Sections 276 and 274, sub A of the Town Law as mentioned in his memorandum. He said he drafted some language in this to get around this and verified with Attorney Kaplowitz as to his thoughts on this. Mr. Kaplowitz said he concluded there was no conflict, indicating he did not think it was a problem in any case.

Other questions raised pertained to the reason for this particular Local Law, the option to present plans for additional conceptual review, and the fact that LUMAC will not have completed its work at the end of another year. Mr. Lipnicky noted LUMAC will not have had time to complete all of the changes that will be necessary in regard to the drafting of the ordinances. He further said the discussions at that point centered around the date for completion of the plan and the drafting of any ordinances or whatever the case may be as part of the political process which will follow the completion. A question was asked about the defacto/deception -- when there is a large development and a map is submitted for the 25 units and the fact that the residents coming to the public hearing do not see the entire development layout. Mr. Lipnicky said this was not exactly correct because the Local Law requires a submission of the conceptual plan for development of the whole site. Councilman Gunner asked if this would be dealt with at the public hearing and indicated this would solve this particular question. Mr. Lipnicky said as far as he knew it was and noted he would research the answer to this. Mr. Secor said the Planning Board had a very extended discussion of how to manage the

option of reviewing the entire parcel to address the impacts. Mr. Lipnicky said the preliminary approval map is the map which shows the 25 units with the remaining lands marked reserved for future development. The map also shows the conceptual layout of the streets and utilities located on the site.

Councilwoman Galvin asked if the total number of lots is addressed with the SEQOR information and said the same basic problem will appear. Mr. Secor said this was not correct, the number stated will be the maximum number of available lots under the current zoning. He said since this plat does not get filed, the filed plat will show only the 25 lots. Ms. Galvin said the SEQOR review is obtained based on that number. Mr. Secor said only to set the outer bounds markers, the maximum available.

Supervisor Ringler said this was reviewed very carefully by Mr. Mitchell before the language was crafted. He said as a follow-up, when the development comes back, another public hearing would be required for any future development in those future lands. He said this allows the public to be apprised throughout the entire process.

Councilman Gunner said if he understands this correctly, when the conceptual plan is approved, the streets are located for safety, fire access, etc., indicating they could be changed in the future. Supervisor Ringler said this was correct. Mr. Lipnicky indicated the conceptual plan does not include detailed engineering review. He also noted that someone could come back to the Planning Board and request changes in the plan. He said what is approved in the plan could be changed in the future.

Councilman Gunner next addressed the issue of whether this is inhibiting true business at a time when there should be a promoting of business. Mr. Lipnicky said as a general principal this particular ordinance does have any affect on developers and might have an affect on profit for developers. He said it also probably puts obstacles in the way of developers and allowing them to move on. He said it adds costs, as well, because additional review is required. Councilman Gunner said he was concerned not to do something at a time when we should not be doing it, indicating he understands the reasons for doing this. He said he is also concerned that people who make an investment get a fair return and also more concerned, with all due respect, that the people they hire have jobs. Mr. Lipnicky said at the rate projects are being built now, no one is approaching the 25 units per year.

Supervisor Ringler said as a follow-up comment, he thinks realistically at this point in time, this law is not having a serious effect. He said there was a cry from many in the community when this was done, to put a total moratorium on all development until the master planning process was complete. He said this was something that the Board felt was not right nor legal. He said the total moratorium and true takings of property, as the attorneys will attest for a long period of time, is certainly not going to be held up in the courts. He further noted the intent was to find some middle ground that allowed the developers to continue to make a living and to provide jobs, as Councilman Gunner pointed out, but not loose control of the big project. Attorney Kaplowitz said he thought it was true, that there was never any intent to keep someone from coming in even though he had the first 25 approved. Mr. Lipnicky said that was the background discussion surrounding this and how the language wound up doing that, he could not answer. Mention was made that it was misinterpreted, indicating that was the original intent. Mr. Kaplowitz said there was no intent to stop someone from coming in and asking.

Mr. Lipnicky was asked to indicate which draft of this local law he was recommending. He said it was draft number 3. Attorney Kaplowitz indicated if the Board chose to adopt draft number 4, a new public hearing and advertising would have to be done due to there being material changes in the language.

There was a further discussion regarding takings of land and what the law allows. Attorney Kaplowitz addressed the questions raised. Councilwoman Galvin noted this issue was one that concerned her also.

Mr. Lipnicky recommended adopting the third draft and said if the Board wants the variance procedure in it, to come back and amend the local law with the addition of this at a later date. He said he feels this is the better way to approach it. Councilman Gunner noted there will be a report from LUMAC for the next meeting. Mr. Lipnicky said the report would be a current status report.

Supervisor Ringler said his feeling is that he would concur that the Board approve draft number 3. He noted that at some point -- if developers are pounding on the door saying that this is starting to interfere with their operations and they have fiscal losses and so forth, that they are asking the Board to consider -- the Board could then consider a variance procedure at that point in time. He said it has not been needed up to this point. Councilman Gunner requested this to be on the record, noting this is fine.

Adopt  
SEQR  
Negative  
Declaration  
and  
Local Law # 1-1992  
Ext. Interim  
Development  
Limitations  
Act.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that a negative declaration in regard to SEQR be adopted. 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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A motion was made by Ms. Galvin and seconded by Mr. Gunner to adopt Local Law No. 1 of 1992, third draft, amending Local Law No. 1 of 1990 which Establishes an Interim Development Limitations Act, on file in the Office of the Town Clerk. 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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Councilwoman Galvin said one point she would like to make before going on -- with the proviso that the Board gets the LUMAC report for the next Town Board meeting so that there will be something that the Board can look at. Supervisor Ringler said he did not think you can contingent a passage of a local law on something like that. Ms. Galvin said no, she just wanted it to be an understanding. Supervisor Ringler thanked Mr. Lipnicky.

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Acknowledge  
Certificate  
of Approval  
of Final Plat  
Curtin/  
Sciandra  
Subdivision

Supervisor Ringler next acknowledged the receipt of Certificate of Approval of Final Plat for the Curtin/Sciandra Subdivision, McCormack Road, Slingerlands, Town of Bethlehem from the Planning Board, for information purposes.

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Approval  
Parks & Rec.  
NYS Recreation  
& Park Society  
Conference

Supervisor Ringler noted the next item was a request from Parks and Recreation Department, David Austin, Administrator, for approval to attend the New York State Recreation and Park Society Conference.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that David Austin, Administrator and Nan Hinman, Assistant Administrator of Parks & Recreation Department, be and they hereby are authorized to attend the New York State Recreation and Park Society Conference on April 6-7, 1992 in Ellenville, NY with registration fee paid and transportation approved by Town 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 said the next item is a recommendation for the appointment of Doug Hasbrouck as a Member of the Traffic Safety Committee.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to approve the appointment of Douglas Hasbrouck, Planning Board Member, as a Member of the Traffic Safety Committee. The motion was passed by the following vote:

Appoint  
Douglas  
Hasbrouck  
Member of  
Traffic  
Safety  
Committee

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

Supervisor Ringler next acknowledged the receipt of a Preliminary Plat Approval for the Wildwood Subdivision from the Planning Board for informational purposes.

Acknowledge  
Preliminary  
Plat  
Approval-  
Wildwood  
Subdivision

The Supervisor next acknowledged receipt of Final Plat No. 146-F for the D. Benevenuti Properties Subdivision on West Yard Road, for information purposes.

Acknowledge  
Receipt  
Final Plat  
Benevenuti  
Properties  
Subdivision

Supervisor Ringler said the next item was a request to appoint Mr. Glen Hammond, Glenmont, New York to the position of Voting Machine Custodian for the Town of Bethlehem to replace Mr. Roger Griffiths.

Appoint  
Voting  
Machine  
Custodian

The motion was made by Ms. Galvin and seconded by Mrs. Fuller, that Glen Hammond, Glenmont, New York, be and he hereby is appointed Voting Machine Custodian for the Town of Bethlehem. The motion was passed by the following vote:

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

Supervisor Ringler said the next item was to acknowledge the receipt of the quarterly franchise fee for the fourth quarter from Cablevision in the amount of \$18,067.00.

Acknowledge  
Receipt of  
Quarterly  
Franchise  
Fee -  
Cablevision

Councilman Gunner asked if each quarter is about the same amount of money. The Town Clerk noted the amount has been in the same range. Councilman Gunner commented these fees are received and forwarded into the General Fund. Supervisor Ringler indicated this was the procedure.

Councilwoman Galvin noted her standard complaint about the financial report and its incompleteness. Supervisor Ringler said the Town is in very difficult negotiations at this time in regard to the franchise. He said the Town is very much a part of what will be submitted in the future in regard to this financial report.

Supervisor Ringler said the following item was a resignation from Orrin J. Barr, as a member of the Board of Appeals, effective March 31, 1992. Mr. Ringler noted Mr. Barr will be missed and Mr. Gunner indicated Mr. Barr had a long tenure with the Board of Appeals.

Accept  
Resignation  
Board of  
Appeals  
Member

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to accept, with regret, the resignation of Orrin J. Barr as a Member of the Board of Appeals of the Town of Bethlehem. The motion was passed by the following vote:

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

Supervisor Ringler acknowledged receipt of the yearly franchise fee from Mid-Hudson Cablevision, Inc., in the amount of \$91.25 for

Acknowledge  
Receipt of  
Yearly  
Franchise  
Fee -  
Mid-Hudson  
Cablevision

1991. Mr. Ringler noted there is one block in the southern section of Town which is serviced by this franchise.

Approval  
Summer Facility  
Usage Fees -  
Town Parks

Supervisor Ringler said the next item is a request from David Austin, Administrator, Parks & Recreation Department, for approval of the Summer Facility Usage Fees, indicating they are the same as in 1991.

The motion was made by Mr. Gunner and seconded by Ms. Galvin to approve the summer usage fees as listed on the memorandum from Mr. Austin dated February 4, 1992 and on file in the Town Clerk's Office. The motion was passed by the following vote:

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

Adopt  
Resolution  
State Aid  
For Sewage  
Treatment  
Works

Supervisor Ringler said the next item is a resolution in relation to State Aid for operation and maintenance of sewage treatment works.

The motion was made by Mr. Gunner and seconded by Mrs. Galvin to adopt the Resolution in regard to State Aid for operation and maintenance of sewage treatment works. The motion was passed by the following vote:

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

Councilman Gunner inquired if there was any amount known at this time. Supervisor Ringler noted not at this time. Mr. Secor said at one point the Town received about \$40,000.+/- a year from this program. He said the air has gone out of the balloon.

Acknowledge  
Receipt  
1991 Annual  
Reports -  
Selkirk,  
Elmwood Park  
and Slingerlands

Supervisor Ringler next acknowledged receipt of the Annual Reports of the Selkirk Fire District, Elmwood Park Fire District and the Slingerlands Fire District for the year 1991.

Fire Districts

Supervisor Ringler said the next item was a recommendation from Bruce H. Secor, Commissioner of Public Works, to award the bid for the Truck Mounted Sewer Cleaner.

Award Bid  
Truck-  
Mounted  
Sewer Cleaner

The motion was made by Ms. Galvin and seconded by Mr. Gunner to award the bid for the Truck Mounted Sewer Cleaner to Foster's Equipment, Inc. of Penn Yan, NY at a cost of \$52,465.00. The motion was passed by the following vote:

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

Approve  
Refund  
of Overpaid  
Water Rents

Supervisor Ringler noted the following item was a request from Kenneth P. Hahn, Receiver of Taxes and Assessments, for the repayment of overpayment of water rents for the month of January.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that refunds of water rents in the amount of \$21.83 for the month of January, 1992 be made to persons whose names appear on the list furnished by the Receiver of Taxes & Assessments and on file in the office of the Town Clerk. 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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 The next item, according to Supervisor Ringler, was a request from Gregg Sagendorph, Superintendent of Highways, to consider repeal of Section 119-30 of the Bethlehem Town Code concerning no left turn at the corner of Oak Road and Cherry Avenue.

Note was made that this is necessitated by the fact a large evergreen tree previously obstructed site distance at this intersection. Due to a pipe failure in the sanitary sewer system, the tree has been removed. Supervisor Ringler asked if the tree was on the right-of-way. Mr. Sagendorph noted it was close to the right-of-way. In negotiations with the property owner, Mr. Secor noted there will be a tree placed back further on the property. Mention was made that the property owner complimented Mr. Secor.

The motion was made by Mrs. Fuller and seconded by Ms. Galvin that a public hearing be scheduled for March 11, 1992 at 7:30 p.m. to consider the repeal of Article VII, Section 1, of the Traffic Ordinance in regard to traffic entering Cherry Avenue from Oak Road shall make a right turn only and a "No Left Turn" sign shall be erected on Oak Road at its intersection with Cherry Avenue. The motion was passed by the following vote:

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

Set Public  
 Hearing  
 Amendment  
 Traffic  
 Ordinance  
 Repeal  
 Article VII  
 Section 1 -  
 No Left  
 Turn Cherry  
 Ave. and  
 Oak Road

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 Supervisor Ringler said the next item was a request from Highway Superintendent, Gregg Sagendorph, to permit advertising for Motor Oil for 1992.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to authorize the advertising for bids for Motor Oil for 1992. The motion passed by the following vote:

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

Go to Bid  
 Motor Oil  
 Highway  
 Dept.

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 The Supervisor said the next item was a request from David Austin, Administrator of Parks & Recreation, for the appointment of seasonal personnel.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the Seasonal Personnel as listed on the Memorandum dated February 12, 1992 from David Austin, Administrator of Parks & Recreation and on file in the Town Clerk's office, be and they hereby are appointed to serve at the pleasure of the Town Board and that they be compensated at the rates stated. The motion was passed by the following vote:

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

Appoint  
 Seasonal  
 Personnel  
 Parks &  
 Recreation  
 Dept.

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 The minutes of the meeting of January 8, 1992 and January 16, 1992 were approved on a motion made by Mr. Gunner and seconded by Ms. Galvin. The motion was passed by the following vote:

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

Approve  
 Town Board  
 Minutes  
 Jan. 8 &  
 Jan. 16, 1992

Acknowledge  
Receipt of  
Conditional  
Approval  
Seiden  
Subdivision

Supervisor Ringler next acknowledged receipt of Conditional Approval of Final Plat No. 152-CF for the Seiden subdivision, for informational purposes.

Establish  
Emergency  
Services  
Council and  
Appoint Members

Supervisor Ringler said the following item was a request to establish an Emergency Services Council and appoint members of the said Council. He noted the Council would complete a report and make a final recommendation to the Town Board in regard to emergency services.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that an Emergency Services Council be established and that the following persons be and they hereby are appointed members of the Emergency Services Council:

John T. Mitchell; Vincent Gazzetta; Joseph Pauquette; Dr. Howard Snyder; Bernard Kaplowitz, Esq.; Bethlehem Ambulance, Janet Burns; Delmar Fire District, Charles Preska; Slingerlands Fire District, Randy Conger; Elsmere Fire District, James Reagan; North Bethlehem Fire District, William Cleveland; Selkirk Fire District, Glen Lasher; and Town Board Representative Frederick Webster.

The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Webster.

Acknowledge  
Receipt  
Annual Report  
1991  
Town Justices

The Supervisor next acknowledged receipt of the Annual Report of Town Justices, Peter C. Wenger and Roger Fritts for the year 1991.

Accept  
Resignation  
Sewer District  
Counsel

Supervisor Ringler said the next item was to accept the resignation of Peter Bishko, Esq., as Bethlehem Sewer District counsel.

The motion was made by Mrs. Fuller and seconded by Mr. Gunner to accept the resignation of Peter Bishko, Esq. as Special Counsel to the Bethlehem Sewer District. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Webster.

Appoint  
Marriage  
Officer

Supervisor Ringler said the next item was a request from Justice Peter C. Wenger for the appointment of Barbara Hodom to the position of Marriage Officer for the Town of Bethlehem.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to appoint Barbara Hodom to the position of Marriage Officer for the Town of Bethlehem. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Webster.

Conference  
Basic Crime  
Prevention  
Course -  
Police  
Dept.

Following, according to Supervisor Ringler, was a request from Richard LaChappelle, Chief of Police, for authorization of Officer Michael F. McMillen to attend a Basic Crime Prevention Course.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that Officer Michael F. McMillen, be and he hereby is authorized to attend the Basic Crime Prevention Course to be held at the Zone 5 Law Enforcement Academy, March 2-13, 1992, with transportation provided 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 said the next item was a request from Bruce Secor, Commissioner of Public Works, for acceptance of an easement in the Adams Woods subdivision, pending approval of the Town Attorney.

Accept  
 Easement  
 Adams Woods  
 Subdivision

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to accept the deed in the Adams Woods subdivision pending approval of the Town Attorney. 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 noted in the folders of the Town Board members, there were two resolutions from our bank. This item was a request from the bank to update our resolutions, according to Mr. Ringler. The Supervisor indicated this resolution authorizes the Supervisor to sign checks and the Comptroller and Deputy Comptroller are authorized to transfer between accounts only.

Adopt Bank  
 Resolutions

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to adopt the resolutions for the bank, authorizing the Supervisor to sign checks and the Comptroller and Deputy Comptroller to be authorized to transfer between accounts only and approval of use of facsimile signatures. 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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The motion was made by Mr. Gunner and seconded by Ms. Galvin to hold an executive session to discuss a personnel matter. The motion was passed by the following vote:

Executive  
 Session

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

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Supervisor Ringler asked if there was anything anyone else would like to bring to the attention of the Board. There was nothing.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to adjourn the regular Town Board meeting at 8:22 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

No formal action was taken at the Executive Session.