

TOWN BOARD
FEBRUARY 28, 1996

A regular meeting of the Town Board of the Town of Bethlehem was held on the above date at the Town Hall, 445 Delaware Avenue, Delmar, NY. The meeting was called to order by the Supervisor at 7:30 p.m.

PRESENT: Sheila Fuller, Supervisor
Freeman T. Putney, Councilman
George Lenhardt, Councilman
Robert C. Johnson, Councilman
Bernard Kaplowitz, Esq., Town Attorney
Kathleen A. Newkirk, Town Clerk

ABSENT: Doris M. Davis, Councilman
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Supervisor Fuller welcomed everyone to a regular meeting of the Bethlehem Town Board. The first item on the agenda was discussion of the proposal of New Options on Waste. She noted this is a time for the Board Members that have any questions and Mr. Secor has been asked to be present to respond to the concerns of the Board as a result of the November 16, 1995 application and the public hearing on January 24, 1996. Supervisor Fuller asked everyone to be patient, it is the Board's turn to discuss this proposal and make a decision.

Discussion
on New Optic
on Waste

Supervisor Fuller asked Mr. Secor to give a brief overview. Mr. Secor, Commissioner of Public Works, said he posted the map that was displayed the night of the public hearing which was colored and the map that was presented with the original application. He noted a Memorandum has been written from the Highway Superintendent and himself to outline the major concerns with the proposal. He said the first concern and the largest concern is still the size of the facility. He noted it is a 1200 ton a day facility that is a class 2 facility under the Code. He said the Solid Waste Task Force spent quite a bit of time putting together recommendations to the Town Board for the Code and one of the things that was done is visit a number of facilities and try to draft some guidelines for sizing, siting, design standards, and operational standards. He said the proposal here for 1200 tons -- in the original submission it was 6.8 acres -- on the revised map that came in the night of the public hearing it is 8.4 acres or 8.44 acres. It is an increase in size but, Mr. Secor said, it is no where near the 30 acres that is required under the Code. He said the Code calls for a large area for truck storage and parking to allow for circulation on the site.

The applicant has described in the application and made other presentations the night of the hearing as to how they could work on the site. Mr. Secor said neither he nor Mr. Sagendorph feel they can agree with their analysis as to how they would do 1200 tons on the site a day. Mr. Secor said they have not recommended that the Town Board grant the variance because it is too much.

Mr. Secor said the second item they talked about was the MSW (municipal solid waste). In the written application received in November, the only reference was the commercial waste. He said the night of the public hearing and on the drawing they both show MSW. He said the original proposal had 3 picking trains with the dumping area, sorting area, and trailers inside the building. The map presented the night of the public hearing has 2 picking trains, still shows the solid waste, construction demolition, co-mingled recyclables and MSW with residual trailers now outside the building. That is a problem under the Code also, according to Mr. Secor. It specifically asks for everything to be inside the building. They feel for blowing papers and care of the facility that would be what should happen. The Code allows for outside storage of processed recyclables.

Mr. Secor said the third item mentioned in the memo was the fact that this entire site is in the flood plain. Unfortunately, Mr. Secor said it flooded just recently and there was approximately 1 1/2 or 2 feet of water on the entire site. The applicant has submitted an analysis for flood plain, noting in fact this is a very, very rare

event. Mr. Secor said they think it is still an issue that needs to be addressed more than it has been to date.

Mr. Secor said a couple other things he wanted to point out in the Code, a number of variances were requested in the proposal but one of the things that really did not get addressed is... our Code requires the design of the facility and for this type of facility it should be done with negative air pressure and dust collection. It is similar to what is being done at ANSWERS and a number of other facilities that handle this type of material. He said in the back-up material that was follow-up to the public hearing and information given to the Board, there are a number of discussions of the type of material and the generation of dust both inside and outside of the building. He said he does not think even though it was not addressed in the public hearing or in the application, he feels it would require another variance on top of the ones that were asked for.

Mr. Secor said he already mentioned the processing and loading inside the building. He thinks it is very important. With that, basically, they are recommending to the Town Board that with the proposal before the Board, it is really more than they can recommend to the Town Board for granting of a variance or moving forward to granting a permit.

Mr. Secor offered to answer any questions that the Board had. Supervisor Fuller said some of the requests for the variances did certainly deserve some credit. She noted they were not all considered at this point in time since there are 3 major issues of great concern to the Town Board. She asked if there are any other questions from the Board Members.

Councilman Putney asked about the matter of requiring permits at the site rather than having to come to Town Hall. He asked whether this would have been workable under this proposal and what the annual revenue might be produced by this. Mr. Secor said by comparison, if you want to go to Rapp Road, to the City of Albany ANSWERS facility, you have to get a permit. They do issue permits on site. If you want to go to the Town of Bethlehem transfer station or landfill, you have to have your permit. Mr. Secor said we do have a permit system in place and most places have some kind of permit system in place. He said whether an on-site permit issuance would make it more convenient, he thinks that is something that could be worked out. He said if it was only comingled recyclables, that would be a different case than when you are handling 1200 tons a day of C & D and all the other things that are going on. He said it becomes more awkward.

Attorney Kaplowitz asked Mr. Secor about his comment about negative air pressure. He asked Mr. Secor to repeat this information. Mr. Secor said, for example, in most of the facilities you go into, it is a great big tipping floor area. He said when the truck pulls in and opens up the back and dumps its material down, if there is dust, it comes out of there or newspapers or whatever, the room would have an exhaust fan and the exhaust fan would lead to a dust collector with bags. He said this is the way it is at the ANSWERS facility. He said in some buildings shredding and grinding is done in the building also. He said the facilities make sure that things are not escaping back out the entrance door.

Councilman Putney asked if we know which of these maps was in the application. Mr. Secor said the map without coloring came with the original application. He said it had 6.8 acres. He said the colored map was presented at the public hearing and shows 8.4 acres which is getting larger which is a step in the right direction. But, Mr. Secor said, it did show a very different floor plan. Councilman Putney asked on which they are being asked to vote. Mr. Secor said the written application asked for a whole series of variances and this is a bit of a problem. He said he did not want to nitpick one thing or another, indicating there are much greater concerns at work here. He said the overall view, the 1200 tons a day on this site is a big item and is something they cannot recommend -- the variance of that extreme and they do not feel they can recommend that.

Councilman Putney thanked Mr. Secor. Supervisor Fuller said the municipal solid waste is the other major concern. Mr. Secor said the

MSW is another real issue. He said it is not in the written application, it talked about commercial waste. It was shown on the drawing as MSW tipping area which is kind of a small area. In the new floor plan, it is a much larger area and they went to 2 picking trains instead of 3. Again, Mr. Secor said, they probably have very good reason for that but it makes it difficult to evaluate the proposal.

Supervisor Fuller asked if there were any other questions from the Board. There were none. Supervisor Fuller said the decision before the Board is really based on the application for the variances. She asked each Board Member to speak to the issue, indicating there is a vote needed.

COUNCILMAN LENHARDT: Sure, I will start. Bruce mentioned that there were 17 or 19 variances. As I reviewed the application that was submitted by New Options on Waste, that was dated November 16th, I found 16 sections or 16 lettered sections -- some of them had 2 parts it was hard to determine whether or not they were asking for 16 variances or some number between 16 and 19. These variances were to the Town of Bethlehem Local Law Chapter 97 which deals with solid waste. And, during the public hearing on January 24, 1996, the applicant appeared to withdraw 5 of the variance requests. So, I believe now the Board is being asked to approve a total of 11 remaining requests for variance. It has to be noted as it was previously, but I want to note that, the proposal is not for a facility devoted entirely to handling clean recyclable materials. And, I feel the disadvantages of this proposal to the Town from a cost benefits perspective and importantly, a compromises of critical sections of our law far outweigh the advantages described by the applicant, therefore, I vote to deny the application.

COUNCILMAN JOHNSON: I will start from the other end. I started off in this project with a very open mind. When I read through the initial application, it talked about construction and demolition material. I went and I visited both sites on several occasions and was very interested in the project. I am very interested in anything that I can do to help in any industrial development, particularly down in the Port of Albany. I even at that time, had mixed concerns with the number of variances that were requested. Personally, reading and I have read more about solid waste and garbage in the last month than I thought I would ever do in the rest of my life. The insertion of the commercial and residential waste plus other inconsistencies, I felt, did not support this number of variances plus the professional input that I received. So, I vote to deny the variances also.

COUNCILMAN PUTNEY: I am ending up with the same result. And, basically for the same reasons. I think that our solid waste ordinance was very well put together, it took a long time and a lot of thought and a lot of professional advice was given toward putting it together and it shouldn't be disregarded frivolously. I think there are ways in which we could make exceptions to the ordinance, particularly in the permitting process -- this is why I asked Bruce the question because I think it is not very stream lined and could be improved upon under certain circumstances and this would be one of them. I am particularly concerned about the flood plain. I believe it should be a serious concern although it hasn't happened very often, when it does it can be devastating to the quality of the river. I would like to see all the activity indoors. There is a lot of problem with wind, as well as, rising water. And, I would like to encourage the applicant to try to meet with our people and see if there is some way in which they could present an application that would be basically in accordance with our solid waste ordinance and acceptable. So, I would also vote to deny this particular application and hope that some sort of middle ground might be reached.

SUPERVISOR FULLER: Thank you, Ted. Basically, the last paragraph of Ted's statement is exactly what I was going to ask the applicant to do as well. Certainly when this started out and first came to the Town of Bethlehem we thought this was only clean recyclable facility. The municipal solid waste was added January 24th here in a public hearing. It was not part of the application that came here in November. This business is welcomed in Bethlehem but we cannot for

one minute jeopardize the quality of life for any of our residents in our community. There is many other concerns but business in Bethlehem is important to each and every one of us but business in Bethlehem needs to be of benefit to this community. I also will be voting opposing it the way it has been brought to the Town Board.

Town Clerk Newkirk requested a vote be taken by all of the members present.

Motion was
to deny
application
for variances
under solid waste
section

The motion was made by Mr. Lenhardt and seconded by Mr. Putney to deny the application for variances under the Solid Waste Section of the Bethlehem Town Code. The motion was passed by the following vote:

Ayes: None.

Noes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mr. Johnson.

Absent: Mrs. Davis.

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Supervisor Fuller noted she forgot to mention at the beginning of the meeting that Councilwoman Davis is absent due to the death of her father late in the afternoon.

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Attorney Kaplowitz interjected that the ordinance requires that the Board give the reasons for purposes of the record. He said he thinks the Board members have, however, he would like the record to show, if it is true that all of the Board members agree with all the reasons stated or if there is some reason anyone does not agree that they state this. Otherwise, he hoped, that everyone agreed with the reasons stated.

Everyone agreed for the reasons stated that the application for variances be denied.

Application
for building
project review
of Price
Chopper to the
Planning Board

Supervisor Fuller said the next item was the referral of the application for building project review of Price Chopper to the Planning Board. She asked if anyone was in attendance from Price Chopper. She stated Price Chopper was on the agenda in order to have the Town Board move their project on for building project approval. Mr. Spargo noted an application has been submitted for building project approval. He said the application contains a packet of drawings, drainage plans, planting plans, utilities, site details and building elevations. He gave a brief outline of the history of the project. He said it started out in June of 1994 with the application for the Planned Commercial District and the approval of the PCD last December. Tonight the application is submitted for acceptance and referral to the Planning Board for building project approval. He further mentioned a few subtle changes which have been made. Changes include the shape of the buildings; parking reconfiguration; square footage of the buildings; relocation of one of the storm water management retention basins; amount of pavement has decreased resulting in an increase to the green space; and more landscaping has been added with more trees and shrubs. He said these are the minor changes and offered to answer any questions.

Councilman Putney asked if there were 3 stores to the left of the bank. Mr. Spargo said those won't change. Councilman Putney thanked Mr. Spargo.

Supervisor Fuller asked if there were any questions from the Town Board. There were none. Mrs. Fuller noted the Planning Board, she was sure, will have many questions. She asked for a motion to refer the application for building project approval to the Planning Board.

Mr. Johnson made a motion to refer the application for building project approval from Price Chopper for property located at Cherry Avenue Extension and New Scotland Road, Slingerlands to the Planning

Board for review. Mr. Putney seconded the motion and it was passed by the following vote:

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

Supervisor Fuller thanked the Price Chopper representatives for their attendance.

The next item on the agenda was a request from David Austin, Administrator, Parks & Recreation Department, for approval of seasonal personnel.

Parks and
Recreation
approval for
seasonal personnel

The motion was made by Mr. Lenhardt and seconded by Mr. Putney to approve the appointment of seasonal personnel as follows:

Recreation Instructor I at a rate of \$5.40 per hour.

Erin H. Gerstenzang
12 Parkwyn Circle
Delmar, NY 12054

Recreation Instruction I at a rate of \$4.70 per hour.

Emily Haskins
1462 New Scotland Road
Slingerlands, NY 12159.

The motion was passed by the following vote:

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

The next item was a recommendation from Highway Superintendent, Gregg Sagendorph, for award of bid for rental of Item 1 and Item 2 Track Excavators to Robert H. Finke & Sons, Inc. of Selkirk, NY.

Highway
Superintendent
award bid
to Finke & Son
Track Excavator

The motion was made by Mr. Putney and seconded by Mr. Lenhardt to approve the award of bid for rental of Item 1 and Item 2, Large Track Excavators to Robert H. Finke & Sons, Inc. of Selkirk, NY at a price of \$999.99 per week or \$2,999.99 per month for Item 1 and \$1,199.99 per week, \$3,599.99 per month for Item 2. The motion was passed by the following vote:

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

The following item was a recommendation from Gregg Sagendorph, Highway Superintendent, for award of bid for Guide Rails to Chemung Supply Corp., Elmira, NY.

Award bid
for Guide Rail
Chemung Supply

The motion was made by Mr. Johnson and seconded by Mr. Lenhardt to approve the award of bid for Guide Rails to Chemung Supply Corporation, Elmira, NY at a total price of \$595.81. The motion was passed by the following vote:

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

Award bid
to Pallette
Stone Corp.
for milling
of bituminous
asphalt

The next item was a recommendation from Highway Superintendent, Gregg Sagendorph, for award of bid for milling of bituminous asphalt to Pallette Stone Corp., Saratoga Springs, NY.

The motion was made by Mr. Lenhardt and seconded by Mr. Putney to award the bid for milling of bituminous asphalt to Pallette Stone Corporation, Saratoga Springs, NY at the prices specified in the bid document. The motion was passed by the following vote:

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

Award bid
to Callanan
Industries
for Washed
Crushed Stone

The following item was a recommendation from Gregg Sagendorph, Highway Superintendent, regarding award of bid for Washed Crushed Stone to Callanan Industries, South Bethlehem, NY.

The motion was made by Mr. Johnson and seconded by Mr. Putney to approve the award of bid for Washed Crushed Stone to Callanan Industries, South Bethlehem, NY at the prices specified in the bid document. The motion was passed by the following vote:

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

Award bid
of topsoil
to R.J. Valente

The next item was a recommendation from Gregg Sagendorph, Highway Superintendent, for award of bid for Topsoil to R.J. Valente, Troy, NY.

The motion was made by Mr. Lenhardt and seconded by Mr. Putney to approve the award of bid for Topsoil to R.J. Valente, Troy, NY at a price of \$9.90 per cubic yard. The motion was passed by the following vote:

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

Award of bid
for gravel
to Valente
Gravel
and Valente
Gravel

The following item was a recommendation from Highway Superintendent, Gregg Sagendorph, for award of bid for Gravel to Valente Gravel and R.J. Valente Gravel as indicated.

The motion was made by Mr. Putney and seconded by Mr. Johnson to award the bid for gravel as follows:

Valente Gravel, Wynantskill, NY:
Type 4, #1, \$5.25 per cubic yard and Run-of-Bank #1, \$3.50 per cubic yard
and
R.J. Valente Gravel Inc., Troy, NY:
Type 4, #2, \$6.64 per cubic yard, #3, \$7.15 per cubic yard and Run-of-bank, #2, \$5.03 per cubic yard and #3, \$5.65 per cubic yard.

The motion was passed by the following vote:

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

The next item was a recommendation from Gregg Sagendorph, Highway Superintendent, for award of bid for Rental of Heavy Construction Equipment to Trinity Construction Corporation and Peter K. Frueh, Inc. as indicated.

The motion was made by Mr. Putney and seconded by Mr. Lenhardt to approve the award of bid for Rental of Heavy Construction Equipment to Trinity Construction Corporation and Peter K. Frueh, Inc. as listed in the bid document. The motion was passed by the following vote:

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

Award of bid
to Trinity
Construction
Rental of Heavy
Construction
Equipment

The following item was a request from Bruce Secor, Commissioner of Public Works, for approval of change order for reduction in cost of Contract 4G for work at the Water Purification Plant.

The motion was made by Mr. Lenhardt and seconded by Mr. Johnson to approve the change order for a net reduction in costs of \$41,078.14 for Contract G for Water Purification Plant General Construction for U.W. Marx Construction, Troy, NY. The motion was passed by the following vote:

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

Commissioner
of Public Works
for change order
reduction in
cost of contract
4G

The following item was a recommendation from Engineering Services Administrator, Michael Cirillo, regarding adoption of maintenance resolution for Delaware Avenue Improvements by the State Department of Transportation.

RESOLUTION BY THE TOWN BOARD
TOWN OF BETHLEHEM
ALBANY COUNTY
For Maintenance of Sidewalks and Watermains
Resolution of February 28, 1996

Engineering
Services
regarding
adoption of
maintenance
resolution
for Delaware
Avenue Improve-
ments

WHEREAS, the New York State Department of Transportation proposed the construction of safety improvements to the Route 443 intersection with Normanskill Boulevard at Delaware Plaza and

WHEREAS, the State will include as part of the construction of the above mentioned project the reconstruction of sidewalks, pursuant to Section 349-c of the Highway Law, and provide for the relocation of existing watermains pursuant to Section 10, subdivision 24 of the Highway Law, as shown on the contract plans relating to the project and

WHEREAS, the service life of the relocated and/or replaced utilities has not been extended and

WHEREAS, the State will provide for the construction of the above mentioned work, as shown on the contract plans relating to the project.

NOW, THEREFORE,

BE IT RESOLVED: That the Town of Bethlehem approve the construction of sidewalks and relocation of watermains and the above mentioned work performed on the project and shown on the contract plans relating to the project and that the Town of Bethlehem will maintain or cause to be maintained the sidewalks and relocated watermains performed as above stated and as shown on the contract plans, including the control of snow and ice.

BE IT FURTHER RESOLVED: that the clerk of the Board is hereby directed to transmit five (5) certified copies of the foregoing resolution to the State Department of Transportation.

The resolution was presented for adoption by Councilman Johnson and seconded by Mr. Putney. The motion was passed by the following vote:

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

Resolution
changes in
Election
Inspectors
for Primary
Day recommended
by
Republican
Committee

The next item was to adopt a resolution pertaining to changes in Election Inspectors for Primary Day, March 7, 1996 as recommended by the Republican Committee.

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

RESOLVED, that pursuant to Article 3 of the Election Law, the following persons be and they hereby are appointed Election Inspectors as recommended by the Republican Committee to serve for the primary election to be held March 7, 1996 as follows:

District 5
Ann Drew, 52 Euclid Avenue, Delmar, NY.
District 6
Frank Martin, 481 Orchard Street, Delmar, NY.
District 7
George Weber, 19 Wallace Drive, Delmar, NY.
District 9
Evelyn Alford, 491 Haskell Place, Delmar, NY
District 14
Nan F. Hinman, 104 Elkin Court, Delmar, NY.
District 15
Kenneth Spooner, Jr., 43 Jordan Boulevard, Delmar, NY.
District 23
Mary Davis, 37 Commonwealth Drive, Glenmont, NY.
Paul Wagner, 722 Feura Bush Road, Delmar, NY.
District 24
Helen (Terry) Knoll, 27 Center Lane, Delmar, NY.
District 26
John Geurtze, 939 Route 9W, Selkirk, NY.

The resolution was adopted by the following vote:

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

Supervisor Fuller said for everyone's information the voting machine will be on display February 29, 1996 from 9 a.m. to 2 p.m. in room 106. She asked if anyone wished to address the Board. There were none. She thanked everyone for their attendance.

The motion was made by Mr. Lenhardt and seconded by Mr. Putney to adjourn the regular Town Board meeting at 8:05 p.m. The motion was passed by the following vote:

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

Kathleen A. Newkirk
Town Clerk