

TOWN BOARD  
JANURY 23, 2002

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  
George Lenhardt, Councilman  
Doris M. Davis, Councilman  
Daniel G. Plummer, Councilman  
Thomas Marcelle, Councilman  
Kathleen A. Newkirk, Town Clerk  
Robert J. Alessi, Esq., Town Attorney

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Supervisor Fuller welcomed everyone to the meeting and invited them to join in the pledge of allegiance.

The first item of business was a recommendation from the Planning Board to adopt the SEQR Findings Statement for the Bethlehem Town Center project (Nigro Commercial Development – Route 9W: PCD No. 2) and to issue the Building Project Approval.

SUPERVISOR FULLER: Before we begin I would like to ask Jeff Lipnicky, our Town Planner, to go through the Findings Statement with the Town Board.

MR. LIPNICKY: Basically what the Town Board has before it is a draft findings statement under the State Environmental Quality Review act. As the Board knows, this project was before the Planning Board for quite some time in review of this application and it is part of the Planning Board's responsibility under a Memorandum of Understanding between the Town Board and the Planning Board. Part of the Planning Board's responsibility was to develop a draft findings statement for the Town Board.

SUPERVISOR FULLER: Can everyone hear Jeff?

AUDIENCE: No.

COUNCILMAN LENHARDT: It's the silver one.

MR. LIPNICKY: Essentially, what I was saying is that basically at this stage in the process of review of the Nigro application which is Bethlehem Town Center on 9W, we are at a point where the Planning Board has made a recommendation to the Town Board with respect to a SEQR finding statement. Essentially, the SEQR finding statement is the end, if you will, of the SEQR process. We've gone through a procedure of identifying environmental issues that are associated with the project. We've gone through a process of producing a scoping document setting down what those issues are. A draft environmental impact statement was prepared on this project and submitted by the applicant and we've also gone through a process of opening that DEIS to public comment and a public hearing. And, as a result of the public hearing and public comment period put together what's known as a Final Environmental Impact Statement answering the issues and questions and what have you that were raised during that public review process. So, now we are at the point where we're kind of at the end... at the summary stage, I like to think of it as, of what we found, how we are going to address different impacts that were identified through this process and what type of conditions and implementation will be necessary to address those issues. And, essentially that's what the findings statement is about. The findings statement that is before the Board contains by and large a summary of the project itself. It contains a summary of the types of issues that were looked at with the project, existing conditions, environmental conditions in the project area and what the applicant is proposing and/or what the Town will require in terms of mitigation measures for the project or how and what will be done to minimize the adverse impacts that were identified through this process.

Also contained in the findings statements are various conditions that will be associated with

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Delmar, NY or call 439-4955, extension 158.

potential approval of this project if the Board so acts to do that tonight. What we have in the finding statement is a number of categories here ranging from ecology to wetlands to how visual impacts are being mitigated, how traffic impacts are being mitigated and the various conditions associated with that type of mitigation. So, for example, all the intersection improvements that were identified through the DEIS and FEIS process are identified within this particular document. It's pretty specific in terms of what the developer will need to do as he goes about building his project to protect the various environmental factors.

That's a general overall summary, I'm not so sure I'm going to go into every little detail here. The document itself is 44 pages long so it's quite extensive and I don't think anybody is interested in being here particularly all night long.

But, before we move on, I have had some discussion with the Town Attorney regarding the document and there are a number of amendments we would like to proposed to here to the document. Most of these involve clarification of language in here, grammatical type stuff for the most part.

The first suggested amendment is on page 5, under the first NOW THEREORE BE IT RESOLVED under item 1 where it says the requirements of the regulations that we are suggesting be amended to the requirements of the SEQR act and the regulations. The second item is on page 25, if we go down to mitigation measures under item 2, the second line of that mitigation measures begins applicant to monitor noise levels in the vicinity of the site. Noise should be changed to air. In the following sentence in that event a monitoring program should be changed to in that event an air monitoring program. So insert an air. If we go to page 27, under item number 6, the second line begins a 2 percent per year background growth rate was applied to the 2000 existing traffic counts. After traffic counts insert a period. Delete the next word which and in its place insert this rate so that it would read this rate is a conservative estimate. And, then if we go to the next line, published in 1977 in the Vollmer Volume Report, there should be a comma after report.

MR. ALESSI: Jeff, I think you meant to say traffic instead of Vollmer.

MR. LIPNICKY: Oh, I'm sorry. You know what it is, the problem is I can't see close up with my glasses. So, I may not be giving you the right stuff, you know.

SUPERVISOR FULLER: We are keeping track of you.

MR. LIPNICKY: Yes, Vollmer report. The next one is item 7, the following item on the same page, the second paragraph reads... or the second line reads midday and Saturday Christmas period based upon trip standard generation rates. That should be changed to standard trip. And, if we go to page 29, item number 23, the first sentence there are no safety improvements planned for within, Route 9W should be inserted between for and within. And, the sentence should go on to read, within the regional transportation improvement program and after improvement plan, developed by Capital District Transportation Committee. -- should be inserted. If we go to the next item, item 24, it talks about the site has been designed with adequate turning radius, radius should be plural, radii. The next item is on page 34, under item number 2, the third sentence begins fire protection and... the third line rather begins fire protection and building code fire safety systems, delete to be incorporated include and replace it with and will include. The next item is on page 37, condition number 1 begins the applicant, before that what should be inserted at the beginning of the sentence is in addition to the above design.

SUPERVISOR FULLER: Start that over again.

MR. LIPNICKY: Sure. Condition number 1 the first sentence should begin in addition to the above design and mitigation measures developed through the SEQR process, and then it would go on to read the applicant shall comply with any and all additional requirements, etc. Then we go down to line number 3 under the same condition, and that reads these conditions, conditions should be struck and inserted in its place should be these requirements if SEQR related will be elaborations of mitigation measures in this findings statement. And, then insert the word they, so that it reads they may be incorporated directly. The next item is on page 38, at the top under item 6, where it reads the proposed tenant, strike proposed and the

last word in that sentence is disclosed, replace disclosed with confirmed. If we stay on the same page and go under conditions, condition number 1 should be struck as it is currently written and replaced with the same language that is in condition 1 on the previous page. So the condition here would read, in addition to the above design and mitigation measures developed through the SEQR process, the applicant shall comply with any and all additional requirements imposed during subsequent reviews related to the building project approval. These requirements if SEQR related will be elaborations of mitigation measures in this findings statement. They may be incorporated directly into the final Bethlehem Town Center site development plans, NYS Route 9W and Bender Lane, Town of Bethlehem, Albany County. So, basically what we are doing is taking the same condition and placing it there also. The next amendment is on page 39, item 10, reads the project site can be seen from the front of the building insert the word school between the and building. And, on the last... page 43, item number 2, should read as follows, the Bender Lane driveway alternatives considered, a colon should be inserted after considered; elimination of driveway, driveway should be lower case, to Bender Lane; access should be lower case. The next word to should be changed to for so that it reads, access for right in and right out only. I'm sorry, right in and left out only. Maybe I better go back to the glasses. Semi-colon and then it goes on to say, converting a portion of Bender Lane to a one way east bound. Semi-colon should be added there. And then if we go on next to item number 3 below it, the second sentence begins however, it would also eliminate the economic, insert between the and economic, social, so it's the social, economic benefits and insert between economic and benefits, the words and other. After benefits insert the word, a new retail facility and strike and other benefits to the Town, and replace that with would bring period. So that the sentence reads, however it would also eliminate the social, economic and other benefits a new facility would bring. And, finally, item 5 on this same page, the second sentence begins however, the potential out parcel identified, strike potential and replace it with alternative and insert the word uses between out parcel and identified. So that it begins, however, the alternative out parcel uses identified.

I think that's all of them. Bob, were there any others?

TOWN ATTORNEY ALESSI: No.

SUPERVISOR FULLER: Bob, used to be a member of the Planning Board before he became the Town Attorney, a few years ago.

TOWN ATTORNEY ALESSI: Planning Board Attorney.

SUPERVISOR FULLER: Oh, that's right.

COUNCILMAN LENHARDT: He was counsel to the Planning Board.

SUPERVISOR FULLER: So, you were counsel and did all this extra work. How soon I forgot, Bob.

Okay, questions from the Town Board.

MR. LIPNICKY: Another thing, we also have Mark Dempf from Vollmer Associates to help answer any questions and we also have Doug Hasbrouck, the Planning Board Chairman and Dan O'dell and Brian Collier.

COUNCILMAN PLUMMER: Yea, I will be happy to start. I will go back to my comment from the last meeting on this issue, I think was 2 Board meetings ago where really for the area between Feura Bush and Bender on 9W. We had talked about the prospect of putting sidewalks or some enhancements there to widen the road. And, I don't see that in the findings in any way other than the applicant going to DOT to try and encourage them to help in that regard. I recognize there are a lot of mitigation measures here but I do still think that that is an absolutely critical hole in this project and I think it's something this Board truly needs to address, in my judgment, if we're going to go forward with it.

I see that with the project, the Price Chopper project, there was an escrow account that was set aside where the developer set aside \$75,000 and it's my understanding that that can be

used for sidewalks. Is that accurate, Jeff?

MR. LIPNICKY: The way the agreement was worded, I would say that that's accurate provided that it's sidewalks that are somehow related, obviously, and in proximity to that particular project.

COUNCILMAN PLUMMER: Wouldn't you consider between Feura Bush and Bender in that proximities?

MR. LIPNICKY: I would say that an argument could probably be made that that would be the case.

COUNCILMAN PLUMMER: Yea, I would too. My understanding is that the cost to do the actual work in this location, I am talking about, is somewhere between \$200 and \$300,000. That's an estimate, I understand, that's from the Department of Transportation given to our Town Engineer. And, I would just encourage and like to get a response from the applicant to help in that regard as far as to do some kind of a... or make some kind of a commitment to enhance that specific area as part of this project. We could at least have a discussion on it before we make a final vote.

COUNCILMAN MARCELLE: Can I ask just for a clarification on one point? When you say... we're talking about close proximity the area between Bender Lane and Feura Bush Road, are you saying that is in close proximity to the Price Chopper? Is that what you reference was to?

MR. LIPNICKY: Right. I mean there are various ways that we could accomplish what we're looking to do here in terms of use of that money but just to give you some background on that, okay? When that condition was imposed on Schuyler, okay, Schuyler had done a traffic study and what that traffic study had shown was that the traffic generated from the Price Chopper, okay, and the redevelopment of that center would create a need for an additional turn lane at the intersection of Route 9W and Feura Bush Road. Okay. And, at the time, you know, not making any assumptions where this project was going, whether it would be approved, whether all the tenants could be brought together in the project or whatever a mitigation condition that was essentially imposed on Schuyler was to provide sufficient funding to construct that turn lane. Okay. And, the general estimate of that was for \$75,000. Now, as we went through the discussions with Schuyler, okay, we also knew that the turn lane was included within the Nigro mitigation or the mitigation for Bethlehem Town Center. So, our discussions continued to a point of well, you know, if the Nigro project is built and the turn lane is installed, you know, there are other improvements or enhancements that could also be done in the general vicinity of that intersection for... whether it be for ease of pedestrian access, whether it be perhaps other improvements at the intersection itself. So, the agreement that was essentially reached was that the money would be utilized for either the construction of that turn lane or for other transportation related improvements in the vicinity of that intersection. Now, off the top of my head I don't remember what the exact language is but that was the gist or purpose.

SUPERVISOR FULLER: Do I understand your response on this \$75,000 from Schuyler Development is for the turning lane and the Nigro project has dealt with the turning lane?

MR. LIPNICKY: That's correct.

SUPERVISOR FULLER: So, that's left the \$75,000 in escrow.

MR. LIPNICKY: That's correct. To do other potential improvements in that area which could conceivably include sidewalks for example. You know, sidewalks for example on even Glenmont Road in front of the center okay. Where we had talked previously not related to either of these projects but in the type of work that we were doing with the various sidewalk studies we had done in Town and one of the things that was identified was a sidewalk, for example, that leads from the intersection of Route 9W out towards... I believe the lane is Wiggand Lane on Glenmont Road. So, you know, conceivably it could be used for sidewalks in front of... along that street or conceivably it could be used for sidewalks along Route 9W. The agreement was...

SUPERVISOR FULLER: K-Mart side of the project on 9W?

MR. LIPNICKY: Pardon me?

SUPERVISOR FULLER: On the K-Mart side of 9W?

MR. LIPNICKY: I mean the way the agreement was written was not specific. It was written in very general terms which I think gives us a good deal of discretion on how that money would be utilized.

COUNCILMAN PLUMMER: Yea, I'm just looking for an opportunity where we can, you know, go together to the Department of Transportation and do what is necessary to get them to help us in this regard. They haven't to date. We have a situation where there is a pot of money there right now. I think we have an opportunity here to enhance that and I think those... that coupled together will help us when we go to the Department of Transportation to make our case and I think that, in my judgment, it is clear that it's needed and I think even if it's separate from this process tonight, as long as there's an understanding... a commitment to work together to do this, I think that will go a long way. But, I do think it is necessary.

COUNCILMAN MARCELLE: Jeff, was it part of the planning review and the SEQR review... let me ask you this first. How far is that intersection of Feura Bush and the 9W from the Town Center project?

MR. LIPNICKY: Off the top of my head, I don't know, does anyone know?

MR. PALUMBO: About 1700 feet from Bender Lane to Feura Bush Road.

COUNCILMAN MARCELLE: And, how much pedestrian traffic do we anticipate to be generated by the construction of Town Center on that between Feura Bush and Bender?

MR. LIPNICKY: I think when you're trying to generate that... something like... how much pedestrian traffic would be generated, I know of no model to estimate that.

COUNCILMAN MARCELLE: Is there a lot of pedestrian traffic there now?

MR. LIPNICKY: I couldn't say for certain, I mean I am not in that area of Town very often.

COUNCILMAN DAVIS: No, no.

SUPERVISOR FULLER: I would hope not on Route 9W. The kids are bused to school and you know, who is walking along the highway.

COUNCILMAN LENHARDT: Dan, I have a question, that \$200,000 to \$300,000 estimate you just quoted, is that for sidewalks on both sides of the highway or just one side?

COUNCILMAN PLUMMER: My understanding it's the west side and it's specifically for between Feura Bush and Bender.

COUNCILMAN LENHARDT: How much would it... and this is... maybe one of the engineers here can answer it – how much would the estimate be to extend from where the sidewalk is completing in front of Farm Family on the east side down to the K-Mart plaza? Can anybody give me an estimate?

MR. PALUMBO: I'm sorry, could you repeat.

COUNCILMAN LENHARDT: You are presently putting in a sidewalk up to terminate somewhere in front of Farm Family Insurance on the east side of 9W as part of your project.

MR. PALUMBO: Yes, it's actually coming from Farm Family and the school to the intersection at Bender Lane where there would be a crosswalk at the signal there.

COUNCILMAN LENHARDT: Okay, but, the piece that begins somewhere in front of Farm Family I would presume it is at least half way maybe on their southerly property line. I am not sure but my question is for an estimate from that point southerly on that same side to the K-Mart plaza.

MR. PALUMBO: It would be just short of the 1700 feet that I referenced. The K-Mart driveway, I would estimate is about 300 feet down... the driveway into the plaza that accesses 9W, I believe is about 300 feet down from the intersection. So, if on one side I was telling you 1700 feet, you would just subtract that. It is only that much shorter.

COUNCILMAN LENHARDT: The distance isn't my question, it's the estimated cost to put a sidewalk in there. I realize there is a gully there. I don't believe it has as many problems with it as the westerly side does along with right-of-way taking and things of that nature. I was just curious. I would think the price would be somewhat less than \$200,000 or \$300,000.

MR. PALUMBO: It would be slightly less. You do still have a fairly steep embankment on the other side of the road so your fill is a very major player in that. The other factor with that, when you are doing the widening is on both sides you have drainage issues. When you go with the sidewalks, you have to have curbing and you go with the curbing you have to have storm drainage. So, what sounds like a fairly simple thing of just adding sidewalks does get complicated by some of DOT's own standards of how they implement sidewalks on their roadways.

Let me know if I need to get to the microphone.

COUNCILMAN LENHARDT: No, I appreciate that. I was just to come up with a compromise where we could lessen the financial impact not only the escrow account... escrow account being used up and then the remainder to be possibly dealt with by the developer and/or the Town.

MR. PALUMBO: There is... just since you are talking about a sidewalk on the other side, there is also something that, I think, needs at least mention. We don't have a detailed answer from DOT on this. It's usually when you get into the highway work permit that you start to be told how you are going to do this. DOT it is not unusual for them to basically have a symmetrical design to their highways where they will... if you have a sidewalk on one side, there are certain regulations that would say, you have to have a sidewalk on the other side. It is different in the different applications of the different categories of their roads but we could be in the situation of not only having to have the sidewalk on one side but because they want a consistency of... I'm trying to think of the word they use for it... a consistency of their cross section, they do not like to have on their roads... and it is their road... situations where on one side they would have one type of shoulder, whether it was a sidewalk or not, the design on one side of the road they like to have consistency and have the same design on the other. So, while we are talking about sidewalks and that it would be nice to have on one side or the other, we could be in the position that the cost that the Town engineer had even brought up at those last Planning Board meeting which I think was DOT's estimate that they had provided at one point in time, you could just as easily double it when you get into the actual design. So, it is good thinking from the compromise standpoint. We can't guarantee one or the other. What we have tried to do is recognize that it really is not associated with the needs of the project.

COUNCILMAN LENHARDT: I concur with that.

MR. PALUMBO: And, that was what was important to us. I think that the project presently does have many enhancements including the enhancements of the school property and I go back to the definition of the enhancements versus the mitigations that mitigations being directly need based due to impacts because of the project, enhancements being not necessarily due to impacts of the project. We have made many of those as part of this proposal already including some of the improvements up at Feura Bush Road such as the left hand turn lane. The dollars that have gone towards that are large and so what may sound like small additional enhancements, we have made many to date.

COUNCILMAN LENHARDT: I concur with your assessment. The whole... I go back to

what I said 2 weeks ago, this whole dilemma could be satisfied if DOT would just widen the entire highway up to Feura Bush Road. Thank you.

MR. PALUMBO: And, I concur with your assessment.

SUPERVISOR FULLER: The concern I have is the safety of the kids and Dan and I have gone round and round. He feels because the center is going in there that we need to make sure it is safe for the young people, seniors... to be able to walk, ride bikes, whatever they wish to do. My concern is 9W is not a place that I want to see pedestrian traffic or people on bikes and really I think this is more the issue for the State DOT and I had the privilege of remembering very soon after John arrived in the Town his suggestion of going to DOT and trying to work with them to do all of this and have a 50/50 split. And, frankly, when we lost that because DOT said no, you know, I think this is an issue that needs to go right back to DOT and I guess for the protection of our kids, have DOT widen the road and really separate pedestrians from the road, even requiring them to put in grassy areas there to separate 9W from the road itself... put your sidewalks back. I'm not an engineer obviously but I know I started out by being a mother of 5 children and, frankly, the last thing I'd want are kids on 9W and as Dan said, yea but my mother didn't want me either but we went anyway. But, I would like to see this just not be here this evening. Discussion, no doubt about it Dan, but I think the ball should be in DOT's court and they need to be held accountable to the community of Bethlehem and be equally concerned about the safety of our pedestrians.

COUNCILMAN PLUMMER: Yes, I understand. I just respectfully disagree somewhat. We wouldn't be in this position if this project wasn't being proposed. So, I do think that although there has been a lot of mitigation done, I still believe that if we do not correct this, it truly is going to be a problem. And, it is my view, that the developer could participate just as the other project did and I would even recommend that the developer advance or consider the sum of \$50,000 to that account in some fashion to help in this regard. And, then we collectively go to the Department of Transportation to do what we can to convince them to complete it.

COUNCILMAN LENHARDT: Jeff, along those same lines, is there a sunset clause on this \$75,000 escrow account or does it stay until we use it?

MR. LIPNICKY: I don't recall there being one in there, George, there may be. Off the top of my head I don't have an answer to that. Doug, do you remember at all? With respect to the escrow account from Schuyler, is there a sunset provision that the money has to be used by?

MR. HASBROUCK: The amount was \$70,000 not \$75,000. 5 years to use money. Held in escrow for 5 years.

MR. LIPNICKY: Doug had just said 5 years he believes.

COUNCILMAN LENHARDT: 5 years, thank you.

SUPERVISOR FULLER: Has to be held in escrow for 5 years.

MR. LIPNICKY: Yes.

COUNCILMAN LENHARDT: And, if we don't use it, it goes back to the Schuyler people.

MR. LIPNICKY: Right.

COUNCILMAN DAVIS: I think and I have some general comments I would like to make. If we're just talking specifically about sidewalks now, I've been a very strong proponent of sidewalks. I've worked on that and pedestrian safety in this community for many years now. I agree with Sheila, I would not want my children walking on 9W. I would not want my children biking there. I would not bike there and I would not walk there. Anyone who has read through the material that we have in front of us that has been prepared by the Planning Board, by Jeff, through the Town Board, the details that are in here, the mitigation measures. All of the detail work and the essentially the... what's my best word... the compromises that have been made and the issues that have been agreed to by the developer are enumerable. I

mean, they're just endless. This developer has been very, very reasonable in agreeing to all of the requests and all of the issues that have come up. And, I don't think it is fair to hold this project now hostage because of sidewalks. The sidewalks were placed where the Planning Board and Town Board essentially felt were necessary. It's not fair to require this developer to improve 9W, which we all know is a major problem. And, it's not caused by the Bethlehem Town Center project. It's caused by all of the traffic, all of the development and all of the other issues that have been on 9W for years. And, I don't... right now I could not in good faith ask the developer to do this. It is wrong and it's wrong for us to ask that. Everyone knows that pedestrian safety is important but pedestrian safety there is not an issue that I think that all of us want to pursue.

COUNCILMAN MARCELLE: If I may, madam Supervisor, I just comment on the sidewalk. I asked some initial questions. The thing that I guess I would echo some of your concerns, madam Supervisor and Councilwoman Davis's as well. I think it is one thing to require a developer to mitigate harm to the environment that his project or her project would cause. And, I understand just from this discussion, a sidewalk or a pedestrian traffic increase between Feura Bush Road and Bender Lane wouldn't be dramatically increased because of the Town Center project. That would fall under the enhancement part of a scope of an environmental thing. And, I agree, I don't think it is right that a developer pay for something that is essentially the State's responsibility and we pay a lot of tax money to the State in this Town.

In fact, just some of the numbers I went over with you this afternoon, Jeff, of the sales tax the State is going to generate probably in excess of 2 million dollars a year in sales tax off this project. And, we are talking something just the first year alone, 10 to 15 percent of the sales tax could construct that sidewalk if the State so chose. They can keep 90 percent of it and just give us that 10 percent. It is the State who should be giving us back our tax revenue generated from this project. It isn't the developer and I agree it isn't fair. It is the State's responsibility and they have a stream of revenue that's going to be produced by this project and we have strong representatives in the Senate and Assembly who represent Bethlehem and should speak up that this revenue that incurs to the State out of this project, some of it at least 10 to 15 percent should come back to the extent that there needs to be sidewalks on the 9W. And, that is my position, madam Supervisor.

SUPERVISOR FULLER: Thank you, Tom. George?

COUNCILMAN LENHARDT: I've weighed in. I've said my peace 2 weeks ago.

SUPERVISOR FULLER: Okay.

COUNCILMAN LENHARDT: I was just trying to find a way for a compromise and obviously it gets more complicated and... as easy as it seemed tonight.

COUNCILMAN PLUMMER: Yea, as was I... I just want to make one point, excuse me Sheila. This is not new. I've been talking about this right from the get go. So, it's not like I'm...

MR. SAMSEL: Would you use the microphones.

COUNCILMAN PLUMMER: I'm sorry. I just want to make the point that this is not new. I've been saying this from the get go. So, it is not as if I am just unveiling this tonight. It is..

COUNCILMAN DAVIS: And, I didn't mean to suggest that you were.

COUNCILMAN PLUMMER: You know, it is a major concern. I think it is an issue that is out there and I've made my case and will act accordingly.

SUPERVISOR FULLER: I think that as we move ahead there this evening, I think that there's room to still... I would take great pleasure in going to DOT with you, Dan.

COUNCILMAN DAVIS: I think we all would.

SUPERVISOR FULLER: Yes, maybe we can invite DOT in for a special meeting.

MRS. CAPONE: Can I ask a question? There is about 400 students at the senior high from Verstandig to Elm Avenue there is no sidewalk, so hey, what's the big deal.

SUPERVISOR FULLER: I think we can go back to DOT and try and work on them a little harder. I shouldn't even say a little harder, we've really been working with them quite a while, for a number of years, on the 9W issue alone. But, I agree with... respectfully disagree with Dan as to who should contribute the money but I do agree with Dan that DOT needs to provide the sidewalks and I think this community is very fortunate to have a developer such as John Nigro who has been overly generous and responsive to the concerns of this community. Just the impact alone at the Glenmont elementary school is significant, significant dollars. And, yet, John Nigro did not have to do that. He came here to build a shopping center. So, I think... we've all been heard on the issue of sidewalks. We all need... have agreed with the DOT perspective and I think we've reached a decision that we're all... well, I'm not sure we're all in agreement but majority has determined that it's not the developer that should have to bear the brunt of this cost or contribute to it.

Are there any other comments or questions on the findings statement other than the sidewalk?

Okay, may I have a motion to approve the findings statement.

**TOWN OF BETHLEHEM – TOWN BOARD  
APPLICATION OF NIGRO COMPANIES, INC.  
BETHLEHEM TOWN CENTER  
SEQRA RESOLUTION AND FINDINGS STATEMENT  
JANUARY 23, 2002**

WHEREAS, the "Memorandum of Understanding Between the Town of Bethlehem Town Board and the Planning Board for Planned Development Districts" (MOU), dated February 27, 1991, outlines the procedures for review of projects located in Planned Development Districts under the State Environmental Quality Review Act; and,

WHEREAS, the MOU requires that when a Final Environmental Impact Statement (FEIS) has been prepared on an application for Building Project Approval in a Planned Development District, (1) the draft of the FEIS shall be submitted to the Town Planning Board and (2) said Board shall make a recommendation to the Town Board regarding whether the FEIS is complete; and,

WHEREAS, the Town Board has received an application for Building Project Approval from the Nigro Companies for development of a proposed shopping center, known as Bethlehem Town Center, on 75.78 acres of land located in an established Planned Commercial District along U.S. Route 9W; and,

WHEREAS, the Town Board acting as SEQRA lead agency accepted a Draft Environmental Impact Statement (DEIS) on the project as its meeting of April 11, 2001 and determined that the DEIS was complete and adequate with respect to its scope and content for the purpose of commencing public review; and,

WHEREAS, a Public Hearing was held on the DEIS by the Town Board at its meeting of May 9, 2001, at which time public comment on the DEIS was accepted by the Town Board; and,

WHEREAS, a public comment period was also provided by the Town Board during which written comments on the DEIS were accepted, and said comment period ran between April 12, 2001 and May 21, 2001; and,

WHEREAS, pursuant to the MOU, a draft FEIS on the project has been prepared by the applicant and submitted to the Planning Board and said draft FEIS contains the comments that were received during both the public hearing and public comment period on the DEIS, as well as responses to those comments; and,

WHEREAS, prior to its final submission to the Planning Board, the draft FEIS has been reviewed and edited by the Town's consultants for the project, Vollmer Associates and the Town Planning Department; and,

WHEREAS, the Town Planning Board has independently reviewed and considered the public comments contained in the draft FEIS, as well as the responses to those comments; and

WHEREAS, by separate resolution dated December 4, 2001, the Final EIS was adopted by the Town of Bethlehem Planning Board and recommended that the Town of Bethlehem Town Board accept as complete, the Final EIS.

WHEREAS, on December 12, 2001, the Final EIS was declared complete by the Town Board, including responses to all comments received at the public hearing and during the public comment period; and,

WHEREAS, more than ten days have passed since the acceptance and filing of the FEIS, as required by SEQR; and

WHEREAS, by separate resolution dated January 15, 2002, the Town of Bethlehem Planning Board has adopted this findings statement and recommended that the Town of Bethlehem Town Board approve this findings statement;

NOW, THEREFORE, BE IT RESOLVED,

The Town of Bethlehem Town Board, acting as SEQRA Lead Agency for the above referenced action, make the following findings and determinations and impose the following conditions based on the record before it, including the Draft EIS, Final EIS, the analysis and recommendations of various agencies, including the Planning Board, the comments of the Town consultants, various Town Departments and the Applicant's consultants and members of the public, and the knowledge of the Town Board of the site and the community

1. The requirements of the SEQRA Act and the regulations promulgated under SEQRA at 6 NYCRR 617.12 (b) have been met;

2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the construction and operation of the Project avoids or minimizes adverse environmental impacts to the maximum extent practicable, including those impacts identified in the Draft EIS and Final EIS (and addendum); and,

3. Adverse environmental impacts will be avoided or minimized to the maximum extent practicable through compliance with conditions and mitigation measures identified herein as practicable.

COUNCILMAN MARCELLE: Madam Supervisor, just before I cast my vote, just for the record, so there's... I just wasn't part of the Town Council during this process and I have spoken with the Town Attorney who really advised me I should lay out on the record my familiarity with the project before I cast a vote on it. And, if I could just briefly do that.

Two years ago almost I sat in the first meeting where the Town Center was proposed in front of the Planning Board and listened carefully to it. I attended in May of '01 the public meeting here. I've had numerous conversations with Members of the Planning Board, with the Town Planner, with Members of this Board. I have read for cover to cover the draft environmental impact statement, as well as, recently this final version in response to all the public comments and certainly during the course of the last year during the campaign I talked to numerous people in Glenmont and throughout the rest of the Town about it and I have also spoken with the developer about it. And, I think on that basis, I am sufficiently aware of the issues involved in this case to cast a vote.

SUPERVISOR FULLER: Thank you, Tom.

COUNCILMAN MARCELLE: And, I vote for it.

On a motion by Mrs. Davis, seconded by Mr. Lenhardt, and a vote of 4 for, 1 against, 0 abstention and 0 absent, this RESOLUTION was adopted on January 23, 2002.

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SUPERVISOR FULLER: Okay. On to the Building Project Approval.

MR. LIPNICKY: The second item that the Town Board has before it is a draft building project approval document. As the Board knows, the Planning Board last week had adopted and sent on to the Board its approval of this project along with its recommendation that the Town Board also approve this particular building project. As part of that approval from the Planning Board, included in the document were many conditions, most of which are directly associated with SEQR mitigation and the findings statement. Things such as highway improvements were included in the Planning Board's recommendation. You know, there are a number of other items dealing with SEQR mitigation and there were also included within there a number of modifications that were to be made to the plan drawings which were included within the Planning Board's recommendation to the Town Board here.

So, what the Town Board has before it now is a draft building project approval document included within this document are essentially all the recommendations of the Planning Board, as well as, other conditions that are typically associated with building project approvals in Town. And, those conditions relate to such things as water, sewer, highways. There is also within here language concerning such things as start of construction date and... which essentially in all our building project approval documents is 180 days from approval. There is also a completion date within here which is basically 2 years from approval and the document lays out procedures to come back before the Board if there is a need for any amendments in the future or to the document itself. This particular document, again, contains

standard language that we use with all building project approvals, as well as, the Planning Board's conditions.

There is in this document one revision to it, a typo that I found and that is on the first page under Roman numeral IV b. it says Janaury 12<sup>th</sup>, 2000 referred the application to the Planning Board for a recommendation regarding zoning change to a Planned Commercial District, the language regarding a zone change to Planned Commercial District should be struck and replaced with on the building project application. So it would read for a recommendation on the building project application. And, that's the only amendment that we have. Any if there are any questions with this, I would be happy to answer them.

SUPERVISOR FULLER: Any questions on the building project application?

COUNCILMAN LENHARDT: No, but I have a question on all the literature that we received in projects of this type and the numerous binders we received so on and so forth, is there any way that the Town or the developer can recover some of those costs if I return most of that stuff.

SUPERVISOR FULLER: It is called recycling.

COUNCILMAN LENHARDT: Yes, but I'd rather not put the load on recycling in our own center if we reuse.

MR. LIPNICKY: If we brought it all back to John, it would probably cost him more money to recycle it... you'd have to call in a truck.

SUPERVISOR FULLER: Any more from any other Board Members?

TOWN ATTORNEY ALESSI: Jeff, I have two suggestions for the BPA, building project approval. One, I would recommend to the Board that the findings statement that you just approved be identified in the building project approval as a basis... additional basis for building project approval. So, if you just incorporate by reference the findings statement as a basis for BPA approval.

And number 2, I would recommend that 4.7 of the findings statement... Section 4.7 which is on page 41, Albany County, that that condition Albany County be a condition of the BPA.

MR. LIPNICKY: Okay. When you are saying 41, you are speaking in terms of the findings statement.

TOWN ATTORNEY ALESSI: Page 41 of the findings statement, section 4.7. Just have the condition that you have there be transposed verbatim into the building project approval as an additional condition of building project approval.

SUPERVISOR FULLER: Okay. May I have a motion for the building project approval with conditions and modifications as contained in the BPA document which includes the findings statement.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve issuance of the Building Project Approval including the Findings Statement with conditions and modifications for Bethlehem Town Center. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Marcelle.

Noes: Mr. Plummer.

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SUPERVISOR FULLER: Thank you, Mr. Nigro and your various staff members. Thank you for your patience and we thank you addressing the issues of this community.

MR. NIGRO: Well, as you all know, we've been here for over 2 years and while I am going to miss my trips here every month, I'm not too sure the feeling's reciprocal. I am sure you would like me to move on but I would like to thank this Board. I would especially like to

thank Doug Hasbrouck of the Planning Board. I think they have done a remarkable job and I think our finances in this project would indicate that at this point. They did a very good job in assuring the community that the proper mitigation took place in this project. Thank you all.

SUPERVISOR FULLER: Thank you. A true compliment to the Planning Board is when John Nigro said to me not too long ago what a wonderful Planning Department and Planning Board you have. They certainly took very good care of this community. So, thank you, Doug, Jeff, Mark, Brian, Dan. Did I miss anybody back there? Okay, thank you very much.

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The next item was to consider a request from Town of New Scotland for extension of the Town of New Scotland Heldervale Sewer District. Mr. Bruce Secor, Commissioner of Public Works, said he included in the Memorandum to the Board a copy of a letter from Robert Wakeman who represents some people who are buying some property out in the Town of New Scotland which is adjacent to the existing Heldervale Sewer District. He said a portion of the land is within the Sewer District and they are bringing in the rest of it. He said there was a letter included from him to the Town of New Scotland Building Inspector dated January 29, 1998 that puts some background information there. He said it is a Town of New Scotland Sewer District and if they want to extend their sewer district it is their business but there is a contract between the two Towns to receive the wastewater from that Sewer District. He said that existing contract does not include these connections and the issue for the Board is to authorize the Supervisor to sign an amendment to that intermunicipal agreement to accept the wastewater from these 2 additional lots and to establish the connection fee at \$12,000 per lot which was what they charged for all of the other connections. He said the background of that was that the developer was going to have to build \$15,000 a lot transvap systems on each of these lots and instead put in the pressure sewers and put in the grinder pumps and then paid us a connection fee. He said to be consistent he recommends that the Board stay with that number.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to authorize the Supervisor to sign the agreement to add additional lots at \$12,000 per lot connection fee as recommended by Commissioner of Public Works, Bruce Secor. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.  
Noes: None.

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The following item was a request from Administrator, Nan Lanahan, Parks and Recreation Department, for approval to go to bid for Sodium Hypochlorite Solution. Could advertise January 30, 2002 and open bids on February 19, 2002 at 3:00 p.m.

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

WHEREAS, the Town desires to advertise for bids for the purchase of Sodium Hypochlorite Solution, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 30th day of January, 2002 and that bids be received up to 3:00 p.m. on the 19th day of February, 2002 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.  
Noes: None.

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The next item was a request from Nan Lanahan, Administrator, Parks and Recreation Department, for approval of appointment of seasonal personnel.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the appointment of seasonal personnel as listed in the Memorandum dated January 23, 2002 at the titles and salaries listed, as requested by Nan Lanahan, Administrator, Parks and Recreation Department. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

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The following item was a request from Commissioner of Public Works, Bruce Secor, for approval to go to bid for Materials. Could advertise January 30, 2002 and open bids on February 13, 2002 at 2:30 p.m.

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

WHEREAS, the Town desires to advertise for bids for the purchase of Materials, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 30th day of January, 2002 and that bids be received up to 2:30 p.m. on the 13th day of February, 2002 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

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The next item was a request from Bruce Secor, Commissioner of Public Works, for approval to go to bid for Chlorine. Could advertise January 30, 2002 and open bids on February 13, 2002 at 3:00 p.m.

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

WHEREAS, the Town desires to advertise for bids for the purchase of Chlorine pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 30th day of January, 2002 and that bids be received up to 3:00 p.m. on the 13th day of February, 2002 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

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The next item was a request from Commissioner of Public Works, Bruce Secor, for approval to go to bid for Water Meters. Could advertise January 30, 2002 and open bids on February 13, 2002 at 3:15 p.m.

The following resolution was offered by Mrs. Davis and seconded by Mr. Plummer:

WHEREAS, the Town desires to advertise for bids for the purchase of Water Meters, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 30th day of January, 2002 and that bids be received up to 3:15 p.m. on the 13th day of February, 2002 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.  
Noes: None.

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The following item was a request from Engineering Services Administrator, Michael Cirillo, for approval of street name change and house numbers for North Street Extension to be renamed Wright Lane.

Supervisor Fuller said the Town of Bethlehem Planning Board is currently reviewing a proposed 17 lot subdivision named McCormack Hollow. She said this subdivision is along existing Town streets, namely North Street and North Street Extension. She said the developer has shown on his map North Street Extension to be renamed Cullen's Way. She said the residents suggested that the name be changed to Wright Lane and it is her understanding is that the road was Wright Lane was a previous name of this street many, many years ago.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the renaming of North Street Extension to Wright Lane as requested by Engineering Service Administrator, Michael Cirillo and suggested by residents currently residing on North Street Extension. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.  
Noes: None.

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The next item was a request from Highway Superintendent, Gregg Sagendorph, for approval to go to bid for various items. Could advertise January 30, 2002 and open bids February 14 and February 15, 2002 for the listed items and at the listed times.

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

WHEREAS, the Town desires to advertise for bids for the purchase of the following items, pursuant to law,

Gasoline and Diesel Fuel	February 14, 2002, 2:30 p.m.
Heating Oil	February 14, 2002, 2:40 p.m.
Crushed Stone	February 14, 2002, 2:50 p.m.
Gravel	February 14, 2002, 3:00 p.m.
Topsoil	February 14, 2002, 3:10 p.m.
Guide Rail	February 14, 2002, 3:20 p.m.
Rental of Track Excavator	February 15, 2002, 2:40 p.m.
Rental of Construction Equipment	February 15, 2002, 2:50 p.m.
Utility Repair Crews	February 15, 2002, 3:05 p.m.
Milling	February 15, 2002, 3:20 p.m.
In-Place Paving	February 15, 2002, 3:30 p.m.

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 30th day of January, 2002 and that bids be received up to the various times and dates, at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

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Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.  
Noes: None.

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The next item was a request from Gregg Sagendorph, Highway Superintendent, for approval to purchase equipment from State Contract and to go to bid for One (1) 10-ton Vibratory Compaction Roller. Could advertise January 30, 2002 and open bids on February 15, 2002 at 2:30 p.m.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the purchase of equipment from State Contract for use by the Highway Department as follows:

1 Heavy-duty diesel powered dump truck with full plow equipment	\$72,684.
2 medium-duty diesel powered stake body dump trucks	\$34,922 each
1 Chevrolet three-ton diesel powered cab and chassis	\$23,113
1 Dodge three-quarter ton gas powered pickup truck	\$17,568.

The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.  
Noes: None.

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

WHEREAS, the Town desires to advertise for bids for the purchase of one (1) 10-ton Vibratory Compaction Roller, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 30th day of January, 2002 and that bids be received up to 2:30 p.m. on the 15th day of February, 2002 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.  
Noes: None.

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The next item was a request from Highway Superintendent, Gregg Sagendorph, for approval of acceptance of resignation of Equipment Operator II for the Sanitation Department and appointment of Equipment Operator II, effective January 26, 2002.

The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to accept the resignation of Bruce Winne, Equipment Operator II, Sanitation Department. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.  
Noes: None.

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The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to approve the appointment of Michael Gervais to the position of Equipment Operator II with the Sanitation Department at an annual salary of \$30,383 effective January 26, 2002. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.  
Noes: None.

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The next item was to adopt a resolution setting fees for the conduct of the 2002 Elections.

The following resolution was offered by Mr. Plummer and seconded by Mrs. Davis:

RESOLVED, that in accordance with Election Law, Section 3-420, and Town Law Section 27, Subdivision 2, the following shall be the fees for the election officials for 2002:

Inspector (presidential year when 2 days are required)	Primary \$100.00 Registration Day \$30.00 Registration Day \$60.00 Election Day \$130.00 Instructions \$10.00
Chairman	Return of Supplies to Town Clerk's Office \$8.00  Mileage for above returns and instructions per mile \$.30
Poll Clerks	Election Day \$125.00
Janitors Primary Day and Election Day	\$25.00
Custodians	Per Machine \$20.00
Technicians	Per Day \$32.00
Party Representatives	\$10.00 per hour

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

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The next item was to acknowledge receipt of Preliminary Plat Approval for the Milltowne Plaza Subdivision, Wemple Road, Glenmont for information purposes from the Planning Board.

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The next item was to approve the Town Board minutes of December 12, 2002.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to table the Town Board minutes of December 12, 2002. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer.

Noes: None.

Abstain: Mr. Marcelle.

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The next item was an update of the Water Supply Emergency by Commissioner of Public Works.

MR. SECOR: In the information sent out to the Town Board last Friday, I included a memo and I'm just going to go down these items. The Town Board acted on January 9<sup>th</sup> to declare the emergency. We immediately began putting together our emergency water supply application. That was hand delivered to both the Department of Environmental Conservation and the Department of Health on the 16<sup>th</sup>. We received a response from DEC and DOH on the 18<sup>th</sup> and they have approved our emergency application with conditions and we are in the process of working through those conditions. We're still working with the Corps of Engineers and waiting on details from them and we are waiting for details from Albany County Health Department from some of their information.

I've also included a copy of the reservoir level report for January 15<sup>th</sup>. The reservoir had

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fallen down to elevation 367.2 on January 15<sup>th</sup>. It's now on 375.6 as of the 21<sup>st</sup>. So we're losing about 8 to 10 inches a week in elevation in the reservoir. We're still in an emergency situation. We really have had no precipitation of any value. We have sent a letter off to the City of Albany asking to purchase 2.5 million gallons per day for the month of February and we have not received a response and it's my expectation that they will not be able to sell us the 2.5 million and we'll know more about that when we get their response.

We did send out the letters to all of the large users requiring that they submit written water conservation plans and we have received very good response from the large users and the combined efforts of those large users we're saving almost 700,000 gallons a day compared to the same time last year. So, we are getting very good cooperation there. We are reading the water meters for the large users twice a week to verify compliance. We normally read them once a week. We're developing information for the media and to send out with the water bills asking all of our customers to conserve water. We've notified the fire companies and asked them only to use fire hydrants in emergencies.

As soon as we receive the Corps of Engineers permit and details from Albany County Health Department we plan to begin pumping from the river up to the Clapper Road water purification plant. That will only affect the industrial area. There are 20 residential customers on Clapper Road and Creble Road. We have prepared a special letter to hand deliver to those residents. We are going to offer them bottled water. We'll be making those phone calls tomorrow. We have already notified industry what is going to occur. It will not affect the rest of the residential area. They will continue to get their water supply from a combination of Vly Creek reservoir and the City of Albany. So, we are moving forward on that.

On the other side of it though, since the reservoir level continues to go down and there really isn't much snow pack or anything to count on at this time, again I raise the issue to the Board of purchasing water from the Town of Guilderland. We have an existing water supply permit. We have an existing interconnection with the Town of Guilderland. At this time of year, Guilderland has more than a million gallons a day that they could produce. Their supply is the Watervliet reservoir. It's my recommendation that we move forward in this for 2 reasons. First of all the conditions that are imposed by the State Health Department require us to maximize the use of our interconnections. We have already maximized, as far as, purchasing from the City of Albany and the only alternative we haven't exercised is Guilderland. The fact that Guilderland adds fluoride and we do not is an issue we'll have to address but we're coming to the point where we have to face the reality of no water versus water with fluoride in it. To postpone this decision too much longer is simply to take more water out of our own Vly Creek reservoir and I'm afraid we will pass from the emergency condition to the next condition which is a disaster. And, I think we need to put that off as best we can.

Again, I would urge the Board to start the purchases from Guilderland immediately and to buy them... Our water supply permit allows us to take up to a million gallons a day for up to a 6 month period and I think we should move forward with that.

**SUPERVISOR FULLER:** I'm not going to debate the fluoride issue again with you but I am going to ask you what approval do we have in hand? We only have DEC. We're still waiting on the Health Department. You're still waiting on the Army Corps and frankly, these agencies need to be dealing with an emergency. What does emergency mean? Are we going to watch a community run out of water while we are waiting for permits from these agencies?

**MR. SECOR:** We have hand delivered the information. I was again today, personally, to the Corps and talked with them. The response I get was that they had to look at their own Federal emergency requirements and go through their process and I explained to the person I was talking to that their definition of emergency and my definition of emergency didn't seem to be on the same page. This person I spoke to at the Corps of Engineers wasn't sure they could get an answer to us this week and maybe not next week. That puts us in a very awkward position. I'm still confused about what permit we even need from Corps of Engineers since there is no excavation. There's no construction of any structures. There is no placement of fill. We're simply setting a pump in the river to pull out for which we have both Department of Health and DEC approval. It is the waters of the U.S. that we are dealing with and I guess that's where the Corps comes involved.

SUPERVISOR FULLER: Do we have the Health Department approval?

MR. SECOR: We have the Health Department approval. We don't have the details from Albany County Health, as far as, the monitoring standards and reporting standards. I'm expecting those.

SUPERVISOR FULLER: So we have the State Health Department.

MR. SECOR: Right and one of the conditions in the State Health Department approval is we couldn't begin taking the water until we had these other details. I was expecting them today but they were not sent to us. I am expecting them tomorrow now. But, we are going to have to pressure the Corps of Engineers to be as responsive as they possibly can because this is an emergency situation. It just makes our... you know, the whole situation very grim.

The reservoir level at the Clapper Road plant is half empty. You know, we're at... right at the edge of losing the ability to process water through half of our water purification plant in New Salem because that plant depends on gravity feed from the reservoir. We're already using low lift pumps that are available in the plant. We're really getting down to a point where, you know, this emergency is going to very quickly escalate into a disaster if we don't get some response.

SUPERVISOR FULLER: The concern that I have is, you know, the idea of putting a pipe in that river certainly was drastic measures to help get water for the industrial area and to free up the supply for our Vly Creek and Alcove which we would not have to be supplying industry with any of our drinking water. The idea of a pipe in the river is drastic enough and for you to now ask us, once again, about Guilderland's water which is short term at best, I have to say I am very troubled by. These agencies that are holding up permits while a community is running out of water is what this issue is. And, Mr. Alessi, I need to ask you, how do we resolve this?

TOWN ATTORNEY ALESSI: The way to resolve this, I believe, is for a call to be made to Congressman McNulty, Senator Schumer, and Senator Clinton for them to call immediately tomorrow, the Army Corps of Engineers and I am hopeful that when they understand the facts, they will make that call on behalf of their constituents because they are the elected officials with jurisdiction over the Army Corps of Engineers. And, I would urge that State Senators Breslin and Assemblyman Faso also make the calls. This agency, the Army Corps of Engineers, I think, generally is responsive but in this particular instance it appears that they have not yet appreciated the magnitude of what's before the Town. I can tell you that we have gone to all of the agencies. There has been a considerable effort, I must say that the Department of Environmental Conservation... I dealt with them directly at the highest levels was incredibly responsive, swift in action and as understanding as an agency could possibly be and this is an agency that really is conservative but they recognize the matter for what it is and that is an emergency that is quickly bordering on a disaster. And, so, my recommendation would be that those calls be made and that the elected officials act and call the Army Corps of Engineers and request the emergency authorization be issued immediately. The purpose of an emergency authorization is to resolve the emergency and then to deal with conditions, etc., as the emergency is being addressed. And, that is precisely what the DEC did in my judgment acting very responsibly.

SUPERVISOR FULLER: Now, when these calls are placed, what is the turn around time on reaching someone and then reaching the Army Corps? You know, I believe, we have talked about as early as this weekend we could be out of water.

MR. SECOR: That is correct. That's why...

SUPERVISOR FULLER: And, everyone of these agencies know that.

MR. SECOR: Have been involved and informed of that.

TOWN ATTORNEY ALESSI: I would also suggest that Governor Pataki just created a Drought Emergency Task Force and I believe he named... he named the Task Force and the

head I think is the State Emergency Response head.

SUPERVISOR FULLER: Jay Jacobi, I did see that.

TOWN ATTORNEY ALESSI: And, I would recommend that that individual be called immediately tomorrow and that that individual contact the Army Corps of Engineers, as well. The very creation of the Task Force is a recognition by the Governor that this is a widespread issue and those who are familiar with the reason for the Drought Task Force is that there are many communities and counties in New York State that are going to face the same problem and I don't believe anybody wants to get off on the wrong foot on how to solve this. So, I'd also recommend that that individual be contacted and that individual call forthwith the Army Corps of Engineers.

It is not an acceptable situation to have our residents... I mean people may think gee, you know, I'm a private person. I've had a well. I've had my water well run dry and well, it was inconvenient I got by. Well, we've got a situation of an entirely different magnitude here. We could have fire hydrants be dry and we all know the severe consequence that that can cause. And, I think we have to be very frank with these agencies and give examples of fire hydrants being dry while people figure out whether or not we followed a certain process.

SUPERVISOR FULLER: Are there any other comments?

COUNCILMAN MARCELLE: A couple comments, if I may.

SUPERVISOR FULLER: Go ahead.

COUNCILMAN MARCELLE: First, just for the record to clarify something that I read in the Spotlight with respect to my position on fluoride in the water. I'm dearly in favor of fluoride in the water for a number of reasons I won't go to now but I just want to set the record straight in that.

My first comment is... and this is more directed to our Counsel or I should say Attorney not to be redundant with words but... is there a possibility of bringing a Federal action and getting any kind of temporary restraining order or I guess some type of temporary injunction that would allow us to pump pending Army Corps of Engineers action?

TOWN ATTORNEY ALESSI: The answer is that, as I know you know, anybody can bring an injunction. The question is whether you can get a judge to sign it and get the relief you want.

COUNCILMAN MARCELLE: Yes, I mean, yes assume that I care about whether we get the injunction or not, just bring it.

TOWN ATTORNEY ALESSI: Well, I would prefer to have the elaboration of that discussion in an Executive Session because it would be a litigation and it would be legal advice to a client, suffice it to say that there are various pros and cons to doing that and it's not a clear cut path to getting what we would need as the goal.

COUNCILMAN MARCELLE: I just wondered if that is an option and, again, I don't know how quickly that could be executed but I am wondering if that is an option that we had. And, I just throw that out for potential consideration.

I have a question, just if I could direct it to Bruce. I've had very limited experience with the Army Corps of Engineers but every experience and every person who has had an experience with the Army Corps has not found them very cooperative at any level and not very respective of elected officials and even Federal elected officials. I'm wondering, realistically, you probably have more experience than I do, what do you think even with pressure from the Federal government and the State government that we get the Army Corps of Engineers off the dime and start doing something before we have a disaster? I don't mean just disaster in the legal definition but I mean disaster, as in lack of fire protection and loss of life.

MR. SECOR: We've had a long history of involvement with the Corps and they can be responsive and they can be bureaucratic and at this point I think we just have to work through this and I think the course of action in making the phone calls and just making sure everybody understands that the definition of emergency is truly an emergency. It may be the fact that too many people have run to this office yelling emergency and they are just callous to that and we tried to explain that to them very carefully. I just think we need to drive that point home before we throw any additional barbs on the fire.

COUNCILMAN MARCELLE: Well, you explained what the emergency was to the Army Corps, is that correct?

MR. SECOR: Yes.

COUNCILMAN MARCELLE: And, were they not moved by your explanation?

MR. SECOR: Tomorrow will tell.

COUNCILMAN DAVIS: I would like to think that we can be more positive. I don't like the idea of being negative and asking for something as significant as this for a community and I think the more positive that we can remain, better.

Related to that, Bruce, I have a question. The letter... the draft of the letter that you have in our packet, has that gone out yet?

MR. SECOR: No, that's still being worked on. We are still rewording that. That's to the rest of the residents, yes.

COUNCILMAN DAVIS: Yes.

MR. SECOR: If you have comments on that... that's why I put it in the package... that will go out with the mailing on January 30<sup>th</sup> with the water bills.

COUNCILMAN DAVIS: One of my initial reactions to it is I don't think that it's as strong as it should be. I don't think that it stresses the real severity...

MR. SECOR: That's also a week old and things have...

COUNCILMAN DAVIS: Okay. That was my initial reaction.

MR. SECOR: We are still working on that.

COUNCILMAN DAVIS: Thank you.

COUNCILMAN PLUMMER: Just one question, Bruce, how quickly, if necessary, could you tap into the Guilderland system?

MR. SECOR: Well, the interconnection has been there since the 1980s and we have a water supply decision and we have the contract in place. It's a matter of driving up there and turning the valve.

COUNCILMAN PLUMMER: So, that's it...it's that easy.

MR. SECOR: It's immediate. Yes.

COUNCILMAN PLUMMER: All right.

SUPERVISOR FULLER: Bruce, if that... I'm sorry, go ahead Doris.

COUNCILMAN DAVIS: I guess I have a question. If we needed to do that within days, would it be possible to call a special Board meeting, Sheila, to initiate that?

SUPERVISOR FULLER: Yes.

COUNCILMAN DAVIS: To take care of that action?

SUPERVISOR FULLER: Yes, I believe in an emergency it's 24 hours notice.

The question I have is to tap into the Guilderland supply gets us through, you know, a few days, this isn't helping for...

MR. SECOR: No, I mean, realistically at this time of year, Guilderland has a million gallons a day in excess capacity from the Watervliet reservoir. So, potentially from now until April they could supply us a million gallons a day and that would be 60 or 90 million gallons that we would not have to take out of the Vly Creek reservoir and could stop us from passing from emergency into disaster.

SUPERVISOR FULLER: Why did we go the pipe in the river then?

MR. SECOR: Because that million by itself is not sufficient. We need a lot more than that. That's why we asked for 3 million gallons a day from... for the industrial area. The industrial area is using about 2 to 3 million gallons a day in the summertime that goes up to 4. So, the request for the taking from the river was to take care of the industrial side. Now, we passed from where we were 2 to 3 weeks ago in terms of the reservoir and, you know, looking at simply preserving that so we don't pass from emergency into disaster from the reservoir side. Another complication is the water purification plant is a very large treatment machine and there are 5 clarifiers and we'll start shutting down a couple of them as we start losing flow. Once you shut down one of these it is very complicated and it takes a number of days to weeks to start one of these back up again. So, we are trying to protect that and also protect the process. To run that plant... right now we are producing about 2.8 million gallons a day out of that plant. If we lose the gravity feed to 2 of the clarifiers, that production will drop down to about 2.2 and we'll have to take those 2 clarifiers out. Once we lost them, we essentially can't get them back until the reservoir begins to refill. We just won't be able to get them back. Getting it down to that level, now we are relying completely on these low level pumps. We're at a point of no return. We have no other reserves. By using Guilderland now, it is calling in the first line of reserves before we have nothing left and that's why I'm just saying now... as a measure... as awkward a situation or as difficult a situation it is, it is an existing emergency interconnection. We are allowed by permit to take water up to 6 months. Guilderland won't be able to supply us for 6 months because they simply will... they buy water from the City of Albany starting in May and June to take care of their own needs. But, we can at least buy water from now until such time as Guilderland no longer had excess capacity for us and save that much water in the Vly Creek reservoir.

SUPERVISOR FULLER: So, do we... do I understand that we need Guilderland water plus the pipe in the river?

MR. SECOR: That's correct.

SUPERVISOR FULLER: In order to get through...

MR. SECOR: And, again, what we are doing is we are saving water in our reservoir as reserves. The other option is we don't buy from Guilderland. We continue to draw down the reservoir until we get to the disaster stage. Now we have 2 or 3 feet of water left over the intake and there is nothing left to do because if we wait until that point and then Guilderland says no, now you have waited until April and we don't have any excess water, that option then goes away.

COUNCILMAN DAVIS: Bruce, I listened to the forecast before I came here tonight. There is no rain in the forecast at least through Tuesday. I mean the weather forecast is for spring time and it's without rain spring time. Balmy days, sunshine which is going to create even more evaporation of what you have there, so we don't have any rain predicted at least through Tuesday, hopefully that is wrong. But, let's just say that it is correct, what then... I mean you know that you don't have a pipe... you are not going to have a pipe in the river because it is unlikely that you'll get your permits before next week, correct?

MR. SECOR: Well, I hope that's not true. I'm hoping that phone calls will be made to New York City. The section has to sign off on any emergency declarations. The people in Troy simply cannot approve that on their own. They have to get a hold of the section headquarters in New York City and then get approval there and we're familiar with people down there, we have dealt with them before and we will continue to push that.

COUNCILMAN DAVIS: Okay.

MR. SECOR: So, I'm expecting that we will be using that emergency pump by Friday.

COUNCILMAN DAVIS: Of this week?

MR. SECOR: Yes.

COUNCILMAN DAVIS: In the river?

MR. SECOR: Yes.

COUNCILMAN DAVIS: Okay.

SUPERVISOR FULLER: And, then what do we do... if we are able to get in the river, this week, how long does that carry us?

MR. SECOR: Well, we have 30 days emergency approval with 1 30 day extension which is available and Mr. Alessi and I are contacting a consultant to begin to fill out the formal water supply application that would be required for an extension beyond that. And, we need to prepare that and prepare the SEQR documents. Prepare all of the other... the coastal management consistency forms... all of the other things that have to go with the normal application process and get that done and get it into the normal review process and ask them to then put that ahead of all the other permits that they already have in front of them because in 60 days we are right back to where we are now unless we have that permit in hand. So, this gets... this is truly an emergency. This is an emergency action. It will last for 60 days and then beyond that we'll have to get additional authorization.

TOWN ATTORNEY ALESSI: Bruce, I want to ask the Supervisor's question and then I want to ask a different question. But, I want to confirm what I think I heard. Your analysis is that even if this Board were to authorize Guilderland water, which I understand there is some hesitancy to but even if they were, that would not close the gap. We would still have a water shortage, correct?

MR. SECOR: No. I'm sorry, if we don't get the pump in the river?

TOWN ATTORNEY ALESSI: Yes.

MR. SECOR: Yes, that's correct.

TOWN ATTORNEY ALESSI: All right. Guilderland alone does not solve the water shortage problem, correct?

MR. SECOR: That's correct.

TOWN ATTORNEY ALESSI: And, that's even for the time period where we get a million gallons from Guilderland.

MR. SECOR: That's correct.

TOWN ATTORNEY ALESSI: Now, let me ask a different question. If we put... get the proper approvals for the pipe into the surface water of the Hudson River, will the amount we get obviate the need for Guilderland? Meaning, will that amount be sufficient that we would not have to go to Guilderland?

MR. SECOR: That is not as simple an answer and the reason is because I can't predict. The

reservoir level has never been this low. We have never operated the water purification plant solely on the low lift pumps. We have never operated the plant with only partial clarifiers working. So, I don't know the answer to that off the top of my head. We are using about 5 million gallons a day. If that plant is doing 2, and we get 3 from the river, then we are all right. If we get 3 from the river and that plant can only do 1, then we need the million from Guilderland just to break even.

MRS. CAPONE: Can I ask a question?

SUPERVISOR FULLER: No, not now, Marie.

TOWN ATTORNEY ALESSI: One more question, to your knowledge have any other customers of the City of Albany had to cut back on their water purchases?

MR. SECOR: That I don't know.

TOWN ATTORNEY ALESSI: Do you know whether the City of Albany has gone to an alert status for their reservoirs.

MR. SECOR: As far as I know they have not yet done that.

COUNCILMAN MARCELLE: In the short term, this is... to make sure I understand. Let's say by tomorrow at 5 o'clock we don't have an answer with respect to the pipe in the river. We would need 24 hours to call a meeting which means probably Saturday. Would we be... we would be dry by then absent the water from Guilderland...

MR. SECOR: Again, these are all based on projections.

COUNCILMAN MARCELLE: Projections.

SUPERVISOR FULLER: Tom, I just need to clarify something. The 24 hour notice is the minimum that can be given but frankly an emergency is an emergency and I would call a meeting at 5:05 if we find out we need to have a Board meeting in order to get water.

COUNCILMAN MARCELLE: Okay, thank you.

TOWN ATTORNEY ALESSI: In the open meetings law allows for that.

COUNCILMAN MARCELLE: I appreciate that because that was a concern and I guess what... what I think the Board should go and I would advocate is, certainly giving you conditional authority to tap into Guilderland water under the conditions we would set forth in a motion... in a resolution without necessitating another Board meeting, even could be done a short term. I think if we gave you the authority under the auspices of the Supervisor, that if it were to come tomorrow at 3-4 o'clock, you could send someone out to open that pipeline if we acted tonight. Not that it wouldn't be hard to call us all together but to me, I inherently trust judgment of you and our Supervisor and to give you that authority without reconvening, even given the fluoride and the hesitancy of people to introduce fluoride into the drinking water. You know, I prefer, I think, given the really severe level and severe potential consequences we are facing to act now and not defer. And, that's just my position.

SUPERVISOR FULLER: Where are the other Board Members on this? I have my...

COUNCILMAN DAVIS: I have a question related to that. If we were to tap into the Guilderland source, how much time would it take to notify the residents who would be using that water?

MR. SECOR: Well, I think, we would draft up a notice and actually hand out notices door-to-door in North Bethlehem. There are a couple hundred houses up there. We would simply do that in the same day. Just to put this in perspective, the Guilderland interconnection has been in existence for almost 20 years. We have used it probably 30 or 40 times when there was a water main break or we had an outage. But, it was usually for a matter of hours and we didn't go through a big notification procedure or anything. This is a different situation where

we are really talking about supply. But, it is an existing pipeline. But we would do that and then since the water would actually be coming into the rest of the Town, we basically would have to do a Town-wide notice through the media, through the Spotlight, the Times Union, whatever just to notify them that we have begun purchasing water from Guilderland and it has fluoride. I'll have to get some wording either from a physician or somebody about how somebody would know whether they needed to contact their family doctor or if their children were on fluoride tablets, you know, we would get some help in that wording. But, basically, we would tell them that they should contact their family physician or their dentist or whoever is prescribing to them if they are on any kind of fluoride. The other issue is that there are some people with kidney diseases...

SUPERVISOR FULLER: Absolutely.

MR. SECOR: that could be affected by fluoride in the water.

COUNCILMAN DAVIS: And, that's what... I guess that's what my concern... I mean, if it is going to be done through the Spotlight, which only comes out once a week, and through the Times Union which is a daily paper but not everybody gets the paper, you know, in my mind I think that's a very critical thing and we need to be aware of how much time it would take and if it's a... if it takes days, that maybe too much for certain people.

MR. SECOR: And, again, I'm not aware of what the timing of the health concerns are.

COUNCILMAN DAVIS: I don't know that.

COUNCILMAN LENHARDT: These people with kidney disease that drink this water in the Town of Guilderland, I assume, they are on bottled water.

MR. SECOR: I don't know that.

COUNCILMAN LENHARDT: Is that a safe assumption? I mean what other alternative is there?

MR. SECOR: I don't know. Again, and I don't know whether it is 1 person in a million or 1 person in 10,000 that might have this affect. But, again, that's information that's been passed along.

TOWN ATTORNEY ALESSI: I think one of the considerations that I'm not clear on is, in Guilderland their water is fluoridated and I believe they have had it for a long enough period of time that they know the concentration levels. Let's even assume that you could get an effective notice out to people – let's play that out. I'm a parent who says... or I'm an individual who needs to go to their physician or their dentist – I'll leave this up to the health care providers – but if I'm a physician or a dentist maybe my first question is, I'll call the Town and ask what's the concentration of fluoride in the water. And, I'm not so sure we're going to be answer that question because if fluoride's a dose... a dosing issue, as I understand it to be, that there are a variety of doses of fluoride you can give, if I'm a health care professional, I might want to know what's the base line that I am dealing with so I know, you know, how far to decrease or increase or what I need to do. And, I'm not so sure we're going to be in a position to be able to answer that question.

MR. SECOR: It could be simply answered for the people in North Bethlehem because they will be seeing 100 percent of that. The Guilderland system doses at 1 part per million, so that's simple. It gets very complicated beyond that because you are going to get blends of water and the water will actually move through the system and you could at times see no fluoride or you could see some diluted portion of that 1 part per million.

Again, over a 2 or... we're only talking about a 2 or 3 month period and in terms of just teeth care, I'm not sure how much 2 or 3 months of fluoride in the overall life of an individual really makes. Again, I would have to check with a physician or dentist on that but it's the other thing... the other health concerns, I think, that are more immediate and of more concern to make sure that those people are aware of what's going on. Very few people know what is or is not in their water but for some people it is very important and we need to try to get that

information out.

COUNCILMAN MARCELLE: And, I'll just echo that. For dental care I would assume you would... a dentist would assume the maximum dosage and it would not be critical over a 30 or 60 day period. It is more of where it can be lethal because of a kidney condition or something else and again, you know, you would have to assume, I guess, if you were a doctor that the... your patient was receiving the maximum dosage which we know what the maximum dosage could be and it could be less. But, for life threatening conditions, I think we know what the maximum is. It is not like they would ingest more than the maximum.

MR. SECOR: well, that's my report.

SUPERVISOR FULLER: You know earlier I said I'm not an engineer and I'm not a physician but I will tell you this, I think we all live in a Town that expect to have water coming out of our faucets this weekend. And, to hear tonight that we may not have it unless we have approvals from these agencies which DEC took the time to not only give it to us but hand delivered Friday night and you ran around Saturday to deliver this. Now, the Army Corps and the Health Department... we need to hear from them. We need to hear from them the first thing tomorrow morning. Ed Jacoby I will be glad to contact. He was the man that helped us through the landslide. So, he certainly knows, you know, if the community is in these dire straights then we need some help. And, this community should not be without water over the weekend.

MR. SECOR: The other experience we draw on is that when... in previous emergencies whether they have been because of hurricane Floyd or ice storms or whatever, is that when an emergency has been declared a lot of the normal process gets set aside. And, I was a little surprised that that was not the case with the Corps. So, again, we are hoping for clarification of that tomorrow.

COUNCILMAN DAVIS: And, Bruce, I think we all want to do the right thing.

MR. SECOR: Absolutely.

COUNCILMAN DAVIS: For the community. I mean I think... I don't know that anybody knows exactly what the right thing is right now, what the combination is, except that we all want to do the right thing and as quickly as possible.

SUPERVISOR FULLER: Okay, anything else on water?

COUNCILMAN MARCELLE: Can we make a motion... maybe consider a motion on this Madam Supervisor?

SUPERVISOR FULLER: Motion on what? What is your motion?

COUNCILMAN MARCELLE: I guess I would move the Board to allow the Town Engineer in conjunction with the approval of the Supervisor to receive water from Guilderland if the need so arose in their opinion.

COUNCILMAN LENHARDT: I'll second that motion.

SUPERVISOR FULLER: Any further discussion?

All those in favor.

Ayes: Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: Mrs. Fuller.

Motion carries 4-1.

And, this is to go directly to Guilderland and provide the water to the community. Correct?

COUNCILMAN LENHARDT: Correct.

COUNCILMAN DAVIS: But, no, I think that the motion was that if you and Bruce determine that it was so necessary.

SUPERVISOR FULLER: I'd hate to complicate these things but I am not in support of this. So, you do not have the Supervisor on this. If you would like, we can start over again. Have another motion. I think this community needs to hear where we are headed and if we have to meet at 3 a.m. this morning or midnight tomorrow night...

COUNCILMAN DAVIS: I'll be here.

SUPERVISOR FULLER: We need to meet and we need to...

COUNCILMAN LENHARDT: The outcome of the meeting won't be any different though. We are giving you the authority to move within less than an hour if it is necessary.

SUPERVISOR FULLER: Move where, to Guilderland?

COUNCILMAN LENHARDT: To wherever the source is.

COUNCILMAN MARCELLE: In other words, just let me... let me just kind of echo what George is saying. I think, if we got to the point where we're going to run out of water, I think we're all... the Council is willing to say let's get the water from the only source we have right now which is Guilderland. And, I guess the intent of the motion was saying look, if we come to that, we would all be here at 3 o'clock in the morning if we got the call but there is no need for that because, you know, we are willing to say look, if it comes to that tap into the water we have 2 responsible leaders in the Town Engineer and the Town Supervisor should that need arise whether it is 6 o'clock tomorrow or 2 o'clock in the morning to say, get someone out there, turn that pipeline on and all the debate... you know, we're not going to have anything to debate except... yea, go ahead.

TOWN ATTORNEY ALESSI: I think that the motion and the resolution does not preclude... it does not preclude a special meeting.

COUNCILMAN DAVIS: Right.

TOWN ATTORNEY ALESSI: And, therefore, if the Town Supervisor in her judgment believes that another meeting is warranted, be it at any of those hours previously mentioned, that she will call a meeting and discuss with the Board the issues. So, I didn't view the motion as inconsistent... the resolution inconsistent with the prerogative of the Town Supervisor to call a meeting before she exercises those powers.

SUPERVISOR FULLER: So, do I need to vote in support of this? You've thoroughly confused me now.

TOWN ATTORNEY ALESSI: That's my job.

SUPERVISOR FULLER: Well, I know where I am headed so you will all hear from me at some point anyway. I appreciate the help but there's a great deal of frustration with this and I would like to have another day to continue trying to get the responsible agencies to come forward and then we have some time to take a look at the Guilderland issue without this being... you know, let's hurry up and do this and... The Army Corps and the Health Department need to come on board and they need to come on board immediately. And, that's... I know repeating the same story. Is there anyone....

COUNCILMAN DAVIS: I have one more question for Bruce. Bruce, you indicated that the letters were going to be going out to the community through the water bills.

MR. SECOR: Yes.

COUNCILMAN DAVIS: Okay. When will that be?

MR. SECOR: January 30th. The next set of water bills...

COUNCILMAN DAVIS: So, that's another week.

MR. SECOR: Yes. Water bills will be going out on the 30<sup>th</sup>.

COUNCILMAN DAVIS: And, by the time they get them it will be a week and a half.

MR. SECOR: Area 1 gets billed on the 30<sup>th</sup>. I think it will be in the mail then. And, then we'll do a special mailing to the rest of the residents of the Town because that will take care of all. We are also including the Town of New Scotland customers.

COUNCILMAN DAVIS: Is there any other way that we can notify the community of this emergency and make it a critical situation? I don't think that this is as... right now... I don't think it's being... the community is finding out about it as quickly as they need to. I think we need to be more expeditious in getting this information out. This is fine but we need to do something to supplement it so that they are aware of how critical this is.

SUPERVISOR FULLER: I think that the need for the next Board meeting that will occur will also be a press conference because this will be significant news. And, I will try and get everyone here that chose to stay with us as we went through the landslide because this emergency is just... is worse than the landslide. This is our quality of life, drinking water, this is not nonsense. So, yes, Doris we will get that message out. And, yes, Mr. Alessi, I won't have the press conference at 3 a.m.

COUNCILMAN DAVIS: I think we'd be here, I know we'd be here if we did.

SUPERVISOR FULLER: I'm not sure the press will be at 3 a.m. Okay, anything else.

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Supervisor Fuller asked if anyone wished to address the Board this evening. Mrs. Capone said she would like to talk to Mr. Secor. She said she thinks Mr. Secor is very realistic. She asked Mr. Secor if it would be a big deal to ask Guilderland for a while to hold onto their fluoridation in the water. Mr. Secor said at the request of the Supervisor he asked that question of Guilderland and quite logically their response was, is it any more difficult for us to tell our 30,000 residents that they are no longer going to get fluoride than it is for you to tell yours that you will get it for a little while. He said that was not an answer but what Guilderland gave as information. Mrs. Capone said if the kids did not drink soda and all that stuff, they would not need it.

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Supervisor Fuller thanked everyone for attending and noted for the students that they picked a very interesting meeting to attend.

The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to adjourn the regular Town Board meeting at 9:23 p.m. The motion was carried by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

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Town Clerk