

TOWN BOARD
JULY 11, 2001

A public hearing 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
Susan Burns, Councilman
Kathleen A. Newkirk, Town Clerk
Robert J. Alessi, Esq., Town Attorney

- - -

SUPERVISOR FULLER: Good evening and welcome to a meeting of the Bethlehem Town Board. I would like to invite all of you to join us in the pledge of allegiance.

The first item on tonight's agenda... can you hear me in the back of the room?

AUDIENCE: No, could be a little louder.

SUPERVISOR FULLER: The first item on tonight's agenda is the public hearing for the extension of time... the request is for a 2-year extension to start construction. I will ask the Clerk to read the call of the hearing.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING
TOWN OF BETHLEHEM, ALBANY COUNTY

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on July 11, 2001 at 7:30 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider proposed Local Law amending Local Law No. 8 of the year 1998, Section 4, Conditions of Rezoning, pertaining to an Extension of Time for Construction to Commence for PCD No. 5 (CMI) Delaware Avenue, Delmar.

All parties in interest and citizens will have an opportunity to be heard at the said hearing.

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who need assistance in order to participate should contact David Austin at 439-4131. Advanced notice is requested.

BY ORDER OF THE TOWN BOARD
TOWN OF BETHLEHEM
KATHLEEN A. NEWKIRK, CMC,RMC
TOWN CLERK

- - -

State of New York)
County of Albany)

ELIZABETH BRADT of the Town of Bethlehem, being duly sworn, says that she is the RECEPTIONIST for THE SPOTLIGHT, a weekly newspaper published in the Town of Bethlehem, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said THE SPOTLIGHT ONCE A WEEK FOR 1 WEEK consecutively, commencing on the 27th day of June 2001.

/s/ Elizabeth Bradt

Sworn to before me this 27th day of June 2001.

/s/ Sharon A. Doldo
Notary Public, Albany County

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

- - -

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on June 27th, 2001, a Notice of Public Hearing, a copy of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Kathleen A. Newkirk
Town Clerk

Sworn to before me this
29th day of June, 2001.

/s/ Catherine T. Picarazzi
Notary Public

- - -

The motion was made by Ms. Burns and seconded by Mr. Lenhardt to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

- - -

SUPERVISOR FULLER: Mr. Cahill.

MR. CAHILL: Thank you and good evening. My name is John Cahill. I am an attorney here in Town and I appear on behalf of Henry Klersy who is the owner of the land subject to Local Law 8 of 1998. I have provided for the Town Board members a time line which sets forth the period of time for which this project has been on the agenda of the various boards in the Town going back to April 1997. And, in June of 1998, the Planning Board recommended that the parcel be rezoned conditioned upon future use limited to assisted living residences for senior citizens. I would like to state for the record that it is our intention to live by that condition. We are not seeking any amendment or change in any of the Town approvals previously granted.

We are simply here looking to have the Board adopt a local law which would amend Local Law 8 as it relates to one of the conditions set forth with respect to the rezoning. That condition requires that construction commence within 3 years of the effective date of the local law and Local Law 8 was filed in the Department of State on July 28, 1998. I think members of the public and the Board are well informed as the reason for our request, there were 2 law suits commenced by Town residents seeking to set aside the actions of the Town Board and the Planning Board in granting the Building Project Approval process. And, as a result of that, my former client, CMI, indicated to Mr. Klersy in March of this year that they would not be going forward with the project because they had moved on to other projects in the interim. So, in fairness to Mr. Klersy, we are asking the Board for an extension of time for him to find some other entity to step into the shoes of CMI with the full understanding that any future development on the project would be in compliance with the rezoning and the Building Project Approval conditions previously approved by this Board.

It is our further intension to commit to have a project built that would be for profit so that the tax base of the Town would be enhanced as we had indicated in our original application. As of this time, despite his diligent efforts, Mr. Klersy does not have anyone under a firm agreement to proceed. And, we are hoping that with the additional time afforded by the adoption of this proposed local law, he will be able to find someone to step into the shoes and to use the existing approvals and

rezoning provided by this Board in the past. Thank you.

SUPERVISOR FULLER: Thank you. Are there any questions of the Town Board? Okay, for the community wishing to speak on the local law that is before the Town Board tonight, would ask you to come speak in favor, in opposition – just give us your name for the record and please come to the mike.

MR. KELLY: My name is Robert Kelly. I live at 2 Weigand Lane. This is sort of a time line also. As stated by John Cahill at the 3/97 Town Board meeting, the contract between CMI and Mr. Klersy was contingent upon CMI obtaining the required zoning and other required permits... rezoning and other required permits. In April of the same year, an application for rezoning was submitted to the Town. The applicant for that rezoning was CMI, it was not Mr. Klersy. On July 22nd of '98, the rezoning request was granted to the applicant. Once again, that's CMI not Mr. Klersy. No where on the application, the approval, does the name Mr. Klersy appear. It was granted to CMI. He was never the applicant. The only person or persons able to ask for an extension of the zoning... zoning, is the applicant, CMI.

CMI as stated in your minutes of the meetings is the sole owner and applicant. It is stated in A1 of the Building Project Approval, that's page 579 in the minutes, whatever. In order for an extension to be granted, the request has to be made by the applicant in writing at least 30 days prior to the expiration date. As far as we're concerned that was not done. It had to be made to you to relinquish control... to relinquish their control... that also had to be made in writing to you. I see... I don't see where Mr. Klersy has any right to ask for nor be granted an extension. He doesn't appear on any of the documents for the zoning... the building permits, the applications, any of it.

SUPERVISOR FULLER: I'm not a lawyer but I do believe Mr. Klersy is the owner of the property.

MR. KELLY: But, the zoning was given to CMI... it was granted to CMI if you look back in the minutes.

SUPERVISOR FULLER: To the building...

MR. KELLY: No, CMI... Mr. Cahill came up and he had a letter in '97 requesting for his clients a rezoning of the property. Mr. Klersy did not ask for that rezoning, CMI asked for it. CMI was granted approval on the rezoning, not Mr. Klersy. He has no right to come in to this now and ask for an extension of something he never obtained to start with.

SUPERVISOR FULLER: Mr. Alessi, do you wish to respond?

TOWN ATTORNEY ALESSI: Let them play it out first, I have my own views.

MR. CAHILL: I believe that zoning runs with the land and that it's a condition that attaches to the land. It is not unique to the owner at the time. If this land were transferred by Mr. Klersy, the rezoning would apply to whomever he transferred it to. Mr. Klersy was under a contract with CMI at the time that the original application was made. The contract also provided CMI with the right to opt out of the contract within a certain amount of time after the receipt of final approvals and all court challenges had been resolved. So, it would be my opinion that the rezoning runs with the land and is attached to the land. It is not a benefit that belongs to any particular entity or individual.

MR. KELLY: Back up for one more.

SUPERVISOR FULLER: Sure.

MR. KELLY: This is just a hypothetical. If I was building a house for you and I came to the building department and asked... requested permits for that home, my name is on the permit... all the applications, everything. If you wanted to make a

change to that contract or permit, you can't come to the Town and do that because you are not the applicant. I'm the only one that can make a change on that application. Is that true or false? I'm sorry; I'm getting blank faces here.
SUPERVISOR FULLER: We need the legal answer to the question.

MR. KELLY: I don't believe that it is possible to do that. He doesn't appear on any of the documents anywhere so it was never granted to him. It was granted to CMI for this building.

SUPERVISOR FULLER: For construction of the building.

MR. KELLY: The rezoning was granted to them for the construction of their building. If CMI is not part of it any more, the rezoning is going to... who? Its Mr. Klersy didn't ask for it. It was asked for by CMI and only CMI.

MR. LIPNICKY: Sheila, if I might. Rezonings are not granted to individuals. If I came in for an application to get a rezoning, I could turn around the next day and sell my land. (inaudible) the rezoning stays in place. (inaudible)

COUNCILMAN DAVIS: In fact, Epoch was the one who took it over, not CMI, it became Epoch.

MR. LIPNICKY: (inaudible) ...should distinguish between because the building project approval and the rezoning... in this particular case...

MR. KELLY: Then why is it only CMI that appears on any of the applications?

MR. LIPNICKY: It doesn't matter who the applicant for the rezoning was, the rezoning is granted to the land not to the individual.

MR. KELLY: Okay.

MRS. MC DERMOTT: Good evening, I'm Maryanne McDermott and I live at 2 Weigand Lane. And, I do want to address Mr. Cahill and Mr. Klersy. Can everybody hear me?

On the item of ownership and who applied for what. Since CMI has abandoned the project fully and completely as of this time, a lot of what I have prepared tonight I'll have to edit out as I go. So, excuse me for that and I also want to apologize that our lawyer, Don Zee, is not able to attend tonight. He had other commitments so I am going to try and fluff it through without him.

Throughout the process as Robert had stated, it was CMI who we thought was asking for the rezoning. And, what I would like to do is go back and refresh our memory as to the main points for how we got the rezoning in place in the first place. I truly believe that the Town and the community was really sold on the business of CMI. We were told through many, many months of public hearings and a lot of research from April of '97 right on through and we have many pages of text to go back to. Mr. Insoft and his son came to the Town and provided with us a wonderful picture of a viable family owned business. They had had 22 years of experience. They were family owned and they had other comparable facilities all-successful with a proven track record. They took our seniors on a tour of their facility and gave them lunch. Now, remember, Floyd Brewer and other seniors spoke in behalf of CMI, not Mr. Klersy or not for Company A, B, C. They were going to affiliate... these were all things about CMI that we all thought were very important at the time and I think may have swayed some people's decision to perhaps vote favorably for CMI in our community.

They were going to affiliate with a local skilled nursing facility. They provided their own vans to onsite and sometimes a 24-passenger bus for wheel chair ramps. The rents were \$2300 to \$2400 per month for approximately 425 square feet plus extra money every month for other needed health care. They were going to provide

their own security at night plus the nurse's aides. They would employ 15 to 20 people for daily work shift – nurses, dietitians, etc. with a staff being local folks, not brought in from their facilities over in Massachusetts. They were only going to have 2 delivery trucks Mr. Insoft said, delivering when CMI said not when the vendor said at 6 a.m. in the morning so they would have a disruption in the neighborhood and he assured us that all of these qualities of the business he would control... he has controlled in the past and he was basically, I think, making a verbal promise or guarantee as the quality of the business to let us know that he was concerned about being in a community and concerned for our needs. Their service van would take their clients to all appointments... doctors, shopping and to religious worship... basically a full shuttle service. The maximum dwelling would be 94 units with no expansion.

Now, if Klersy is granted the extension, how can he promise all of the things that we were once told and thought were so good. If the zoning does go with the land, there's an awful lot of contingencies that Mr. Klersy must adhere to and thus, the next company... company A, B, C... Very difficult to control and promise and I think you are leaving yourself wide open for a variety of problems.

You do not have to give him an extension. It's hard to believe that a man in the building business for decades is taken by surprise over our litigation and the delay it's caused. This well respected man simply cannot be surprised by what happened with our delay because, I guess, it happens all the time. It should not be our fault and the litigation should not be blamed for the lame excuse of the extension request. Something else happened which now we know is the abandonment of CMI and the project. Where were they all winter and spring... no phone calls, no letters? So, obviously the interest was gone.

I think Mr. Klersy is using the excuse of the litigation to cover his desire to keep it a commercial property and viably open for another sale. Nothing's wrong with that. I'm not criticizing that at all and I don't mean to.

The property as of this morning is assessed at \$40,000. Now, we all know that if it has a commercial backing does that change the appraised value or the status in any way. I truly don't know but I think it is a question that should be thought about and addressed.

We followed the law. We spent thousands of dollars of our own money over 3 years that quite frankly for some of us, was a hardship. We fought for what we believed in for our neighborhood and for all the reasons and all the past public hearings that we really did not want this in our community. It's too big. We had a senior density law in place on the books that was well researched of 67 units. It's just hard to believe that you could stuff this massive building on that little lot and think we're going to be happy. So, we're going to fight tooth and nail. We followed all the legal time limits, all the filing procedures and also, please remember, that Mr.... and I hope I'm not pronouncing his name wrong... Blabey, Mr. Blendell, Mrs. Nelson, Susan Burns and Mr. Odell, all respected members of the community, all had concerns about the zoning at that time and many of the Board Members referred to it as spot zoning.

Please do the right thing and do not grant the extension. There's too many loose ends. Since 3 years have passed, the market also is quite different. New facilities have opened and they all have vacancies. I do not have the facts and figures with me tonight but if we need them I'll get them. No one is saying from our group or from the community, I believe, that we don't need senior housing. It's a concern for all of us and we're really not trying to say that this is not a good idea. I'm sure it is a good idea, not on this site. With the other vacancies, I'm certain that some market research is now needed to find if this is even a viable plan on that site and in the community. A lot of the other facilities are smaller, closer to 67 units per acre or whatever it is and again, nobody is disputing the need for that. And, I hope that you don't think that we are because we are concerned and we are caring. We want the right thing for the right space in every part of Town so that everyone is happy.

Yes, it sounds ideal, but you can't help but dream about it.

Another part of our little 3 pronged conversation tonight will be given by one of our group, Bob Marriott and I would like to bring him up right now and have him address you, if you don't mind.

SUPERVISOR FULLER: Sure.

MRS. MC DERMOTT: I thank you very much for the meeting tonight.

MR. MARRIOTT: Good evening. I'm Bob Marriott. I live at 497 Delaware Avenue. I have a number of items to read off to the Board.

The first is a letter dated July 2, 1997 from Mr. Klersy to Mr. Lipnicky, the Town Planner.

Dear Mr. Lipnicky:

Confirming your discussions yesterday with my attorney, Mr. Dempf, and in accordance with the requirements of Section 128-6 of the Bethlehem Zoning Ordinance, I do here certify as follows:

I am the owner of the premises situated at 467 Delaware Avenue, Delmar in the Town of Bethlehem, Albany County, New York being all of the lands to be included in the proposed Planned Commercial District No. 5. The application for such zoning change is made by CMI Senior Housing and Healthcare, Inc. or its assigns. -- It's not made by Mr. Klersy. Your deponent has entered into a contract for the sale and transfer of such property to said CMI Senior Housing and Healthcare, Inc., contingent only upon approval of the application of the change of zone and the municipal approval of assisted living units for senior citizens accommodations.

Very truly yours,
Henry Klersy

At a March 1999 Town Board meeting, Councilman Burns questioned Mr. Insoft... this was after CMI turned into Epoch. Regarding statements made previously, she asked now that he was not a part of this, how can he guarantee these things? Mr. Insoft explained that he is one of the major stockholders in Epoch and he is on the Board of Directors and he wants a return on his investment. He said he will not deviate from the plan. Mr. Insoft said he will not deviate from the plan. At that same meeting, Mrs. Fuller, you said for the record in the Building Project Approval on page 3, this approval has been granted to Epoch Senior Living Inc. and it's subsidiaries, a successor in interest to the applicant CMI Senior Housing and Healthcare, Inc. and is sole owner of the land constituting Planned Commercial District as defined in paragraphs above. As owner and perspective developer, Epoch Senior Living Inc. shall be held responsible by the Town for strict observance of all stipulations contained herein and full compliance with all pertinent rules, regulations, specifications, of the Town until such time as the stated building project herein has been fully completed to the satisfaction of the Town. This is all part of the documents Supervisor Fuller stated, that have gone out to every single Board Member.

July 22, 1998 another Town Board meeting, Councilman Johnson stated legal protection for future use of the land has been put in place by Counsel.

July 8, 1998, this is Councilman Lenhardt speaking. If you were given permission this evening to start construction, what's a reasonable time period to expect completion? Mr. Cahill I would say that the completion would be within 1 year approximately. They have had 6 months, they haven't even started.

Mr. Lenhardt the reason I bring this up and this is what concerns me and I will read the paragraph or the sentence again – construction shall be deemed to commence when a building permit has been issued for construction on the parcel and substantial clearing and graded activity has begun. And, I commend the Planning

Board on putting that condition in to ensure that the applicant is really honest and above board in preparing the property and completing the construction. But, for the same reasons that they felt a time period should be in there for commencement of construction, I feel there should be a closure period so that if we have similar situations in the future, someone comes in with a bulldozer and can knock down an awful lot of trees and satisfy this and then for economic reasons or whatever, leave the site that way for a lengthy period of time. I would like to see that avoided in the future. I know it is not in the wording in this and I trust these people will pursue their course and be completed within 1 to 2 years. You trusted these people to begin construction and complete construction within 1 to 2 years. Six months have gone by, they haven't started. Mr. Lipnicky, yes, that was discussed to some extent at the Planning Board level also and the idea of having a construction completion date. The difficulty with that is that if you have somebody... well, first of all if you have somebody who is commencing construction and they are in the process of constructing the building and aren't completed yet, and the construction date then passes, the question is what are you going to do. Okay. Obviously, you know, if the construction has commenced no court, I don't think, is going to say that the Town now has the right to say that the zoning now reverts to a former status but John and I have talked a little bit about this and maybe this additional wording in that paragraph would satisfy your concerns because, you know, I mean the whole reason for this in the beginning is because we have a lot of planned districts in Town where the zoning was changed many, many years ago and it took many, many years before somebody actually got out there and started construction on it. And, over the time, there has been substantial changes in what the project looks like and what the project is about. So, that is one reason that this was recommended in here. In any even, John and I had discussed that a bit and we would suggest maybe this type of language would satisfy your concern, George. The last, if you begin at the second to last line of that paragraph where it begins, construction on the parcel and have it read from that point as follows: construction on the parcel, substantial clearing and grading activity has begun and the building foundation has been poured. So, that way, there's actual construction that's commenced on the building and I think once the foundation has been poured, we're at a point now where you don't want to stop construction any more. It's better to have the building completed even if it takes a couple... an additional 2 years or so or whatever the case may be.

Councilman Lenhardt, okay. Mr. Lipnicky, so maybe that would satisfy your concerns to do that. Councilman Lenhardt, thank you. Stay right there, Jeff... oh, I'm sorry, Mr. Flanigan, I just want to relate... I just want to relate what we just talked about because this happens on every project we have today, every large project we have we are not... when we start they're in with a good faith effort to start the project and get moving but that doesn't mean that they're going to continue. There are many things economically that do things for them. The one thing that comes to mind is Adams Station. Adams Station, down off Elm Avenue, started and got well under construction had about 5 of the sections done but 3 of the sections sat there half done with foundations in the ground because of economic things at that time. All of a sudden things changed 2 years later and they are back and now the thing is completed. So, those things do happen but it happens on everything, we've got a church in North Bethlehem now that's half built that's sitting there. Economics got in their way. So, I don't know how long that's going to sit there under that condition. But, it happens every place and I don't know how we can stop it. I defer to... Councilman Lenhardt, I understand but in this particular situation, the Planning Board chose to place conditions on a rezoning application and they chose to put a time period in there to ensure that the application if it went forward, started and was completed with the proposal that was presented to the Town Board. And, I just felt, you know, if we can tighten it up a little bit more it would be beneficial.

Back in August of 1999, August 11th, Mr. Cahill appeared before the Town Board. My client is reluctant to proceed with construction until such time as the litigation has been resolved. I would ask you to consider an extension, which is tied into the resolution of the litigation.

At the August 11th, 1999 Town Board meeting this matter was discussed. A motion was made by Mr. Johnson and seconded by Mrs. Davis to amend the time to begin construction to 180 days from the rendering of a final court decision. The final court decision was in December of 2000. 180 days from that point would be in June of 2001. This time has passed. As such, the zoning has reverted to "A" Residential. No extension can be granted. The whole process must begin at square 1 with a new request for rezoning.

I also have a letter I've been asked to read from another resident, Sally Peyrebrune. She lives at 420 Delaware Avenue.
Dear Members of the Town Board:

As a resident of the "A" Residential zone of Delaware Avenue, who is interested in maintaining the residential character and amenities of living in the old Town center, I urge you to vote no on the request by Mr. Henry Klersy to extend the time granted for a zone change to Planned Commercial District to accommodate a proposal by CMI for building a senior assisted living facility. I list my reasons below.

The zoning change was granted for a specific proposal by CMI and is not transferable. If the proposed facility remained viable for the company surely CMI/Epoch and would have been ready to begin construction within the time frame permitted.

The Land Use Management Plan adopted by the Town Board as a planning guideline recommended that the "A" Residential zone remain in place. This is a reasonable guideline considering the 2 lane highway and the surrounding "A" Residential area that would be impacted by commercial development on this section of Delaware Avenue. Commercial creep is zoning by default rather than by careful planning.

The community need for assisted... for senior assisted living facility can be met within the existing residential zoning classification by using the floating senior housing zone for construction of a facility to serve up to 64 persons on the Klersy site. This would honor the LUMAC guidelines and protect the interest of the families residing in the neighborhood whether on Delaware or on adjacent and parallel streets which are "A" and "B" Residential.

As you serve our community, your thoughtful deliberations on this and other development issues are deeply appreciated.

Respectfully,
/s/ Sally Peyrebrune

When CMI made their presentation to the Town, they planned to spend 12 million dollars on this project. They told everyone they had done tremendous research to show that there was a huge need for this project, this facility in Delmar. Over the winter, when the final court decision was made, building materials were at a many year record low. There was certainly no reason for the cost of building materials to slow the project up. Over the 6 months since then, interest rates have gone down, down, down making the economic feasibility of the project as far as borrowing the money to build it go up, up up. Yet, the people that originally proposed, the people that were given approval, the only people that were given approval to build on this site, chose not to. They found it is not economically feasible to build here.

I would like to thank the Board for its time.

SUPERVISOR FULLER: Thank you. Is there anyone else wishing to address the Board this evening on the purpose of the public hearing?

MR. CAHILL: If I may respond to some of the issues that have been raised?

SUPERVISOR FULLER: Let me get the comments, John, and then I think there'll be some response to this.

MRS. CAPONE: I live very close to Mr. Klersy's land and I am in favor of it. I'm not going to be popular here but I don't care. I have visited retirement home from

Troy to Schenectady, give or take a dozen. What this woman said about the van and all that, it's all over, okay. It's standard for the retirement homes. When I hear that I think there is a retirement home across the street from Memorial Hospital. I never forgot when I went there because I met a woman from Delmar. Her name was Betty White. She lived across the street from a Town Board Member before she went there, okay.

I went... the last time I was at the Beverwyck as expensive as it is, there was no vacancy. They cannot say that... hey. If these people are so much against it, they can buy the land, put their money together and buy it. This is not a commercial land, it is for residential, it is for people... elderly people that tell me what is happening with that, when are they coming. We're getting older and we want to go there. We want to be close to the library. We want to be close to Town Hall. This is what I hear and there's no reason to refuse Mr. Klersy to do his thing. Okay.

If the money is an option, of all the places I've been to, the cheapest one is the Nelson House in Albany. It is about Child's Hospital. Well, they want Mr. Klersy to promise them that it would be this way and that way... are they going to promise Mr. Klersy that they will never move and it will be the way... their land will stay the way it is. Their house will never increase. Their house will be up kept and their house will be the way it is now. Then, if they expect Mr. Klersy to promise them something, then they have to promise something in return.

Thank you.

SUPERVISOR FULLER: Is there anyone else wishing to address the Board in favor or in opposition. Wait a minute, Mr. Cahill.

MRS. BOYLES: Hi, my name is Regina Boyles. I live at 20 Stratton Place. I'm not very good at this. I just had a couple of comments. One, I was never opposed to a senior housing in my backyard. I thought that was lovely. When I moved in to Delmar 15 years ago, I understood that that property was zoned residential. I understood from LUMAC that it was targeted for institutional which was like public owned. I always thought a community center would be lovely there. The reason I opposed... actively opposed the rezoning was because it was rezoning to Planned Commercial and when the Town Board voted for the rezoning, it sounded an awful lot like everybody was saying that it was for this project. It was for CMI. It was for what they had planned. And, I hear tonight that rezoning is given to a parcel of land and not to an individual. And, it sounded an awful lot like it was the other way around when it was approved.

And, I think... I've asked the Town Board to consider that if Mr. Klersy wants to find somebody and if the Town thinks a senior residence, some type of senior residence, would be appropriate there that they would consider looking to see the lots that are already in place. The senior zoning law – I don't know if that's what it's called specifically – but it would allow for 67 units and I think that some think like that would fit into the center of Town. I don't think that anything as big as what CMI planned really fits into the pedestrian/residential community that's in the center of Town and so I respectfully ask the Board to let it expire because CMI is no longer interested in building it. Thank you.

SUPERVISOR FULLER: Thank you. There was a gentleman who stood up...

MR. MOORE: Hi. My name is David Moore and I live at 39 Borthwick Avenue. And, I just have a few comments. The first is the fates don't often give us a second chance to redo something. In the language of children's sandlot games it's called a do over. But, it seems Mr. Klersy wants a do over. However, nobody told Mr. Klersy to buy that property. Nobody told him to enter into this contract with CMI. He tried to hit a home run with it and he struck out. So, I can't say I'm sorry that it didn't work out for him but that's the way business works. Now, we're being asked, your being asked to consider extending this project and have it have a new company come in and try and build the same project whereas, the people who

designed this project and aren't even interested any more. It doesn't make sense that if it didn't work out for 3 years, it's not going to work out in the next 2 or next 3 or next 5 or whatever.

I suggest that the Board tell Mr. Klersy to get on with his business. Let the zoning revert back to what it was. Let him build houses on that property like it's zoned for and I think the Board should encourage these new companies, if they exist, to come in and build on a properly zoned parcel, such as the 9 parcels that were available to CMI, at that time, they publicly stated they looked at 9 parcels. They rejected them all because they were too expensive. I understand that one of those parcels is now houses that Van Allen Senior Homes. So, if the Board had just told CMI to use one of these parcels, we may have had assisted living now.

I don't know if you remember, I think it may have been in front of the Planning Board but my wife got up here and she shot their marketing research full of holes, that this all of this talk that there was a need was not supported by their marketing plan and I think if anybody follows the assisted living situation in the Capital District, a lot has been built in the last 3 years and I think whatever marketing plan is out there now... I suspect that's why EPOCH is no longer interested. That the marketing situation is changed and there may not be a need for it. I could never understand the argument that the supporters of this project made that they wanted to have something in the middle of Town so they could go visit their parents. These are the same people who are willing to commute 10, 15 or 20 miles to a job but I guess they weren't willing to commute 10 or 15 or 20 miles to visit their parents.

Mr. Klersy and CMI could have dropped this project when they realized that there was significant neighborhood opposition but they chose not to. I think it's the Board's job to tell him enough is enough, let's move on and let this parcel revert back to its original zoning.

Thank you.

SUPERVISOR FULLER: Thank you. This is the last call. We do have a full agenda ahead of us and we have a group of individuals that we do need to get to quickly. Yes.

MS. NELSON: Ellen Nelson, 405 Delaware Avenue. When the zone change was approved, it was based on the CMI proposal, not on a theoretical or philosophical discussion of the benefits of senior housing at that site. At that time there was specific restrictions placed on that proposal including the time limit and the fact that it wasn't going to be just any senior citizen housing project, but the one that was before the Board. Would you have approved a zoning change if there had not been that specific project before you at the time?

I don't think this should go forward. I think Mr. Klersy has enough opportunity to develop the land other ways and I hope the Board sees fit to let this lapse. Thank you.

SUPERVISOR FULLER: Thank you. Mr. Cahill.

MR. CAHILL: Ah, yes just to wrap it up if I may. And, for purposes of clarification, there were 2 significant decisions made by the Town Board with respect to this project. One was the adoption of a local law which rezoned the parcel and the second one was the approval of the building project approval document. Most of the issues that have been raised here this evening, deal with the building project approval process. They do not deal with the rezoning issue.

When and if, Mr. Klersy, finds someone to come in and go forward with this project, it will incumbent upon us to come back and have the building project approval reissued in the name of that entity. That entity will be required to comply with each of the conditions that is set forth in the building project approval. That

has nothing to do with zoning.

What we are asking here tonight is simply a matter of fairness. Is it fair for the parcel to revert to its former zoning when the 2 year delay that we are seeking to have wiped out tonight was caused by the litigation brought by the residents who opposed the decision of the Town Board. We could have come in here and asked for a 3 year extension but the discussions that I had with my client, in all fairness, we calculated how long it was from the commencement of the litigation in November 1998 and the final decision of the Appellate Division in December of 2000 and we felt that it was fair to the Town and to my client to ask for 2 years.

So, what we are asking for you to do tonight is simply give Mr. Klersy the 2 years that he did not have as a result of the litigation. Thank you.

SUPERVISOR FULLER: Thank you.

MR. KELLY: Can I go one more time?

SUPERVISOR FULLER: One more time and then I am going to ask for a motion to close the public hearing.

MR. KELLY: I'm reading out of the minutes of the... actually I'm reading out of your affidavit. The Planning Board...

SUPERVISOR FULLER: Which is what all of this was, I assumed.

MR. KELLY: Yes/no. The Planning Board spent an inordinate amount of time approximately 1 year reviewing CMI's application for change in zoning. As more fully detailed in affidavits by Douglas Hasbrouck and Jeff Lipnicky. The Board required submissions of numerous studies, properly evaluated, the rezoning proposal. Finally at its June 2nd, 1998 meeting, the Planning Board recommended to the Town Board that it approve the application for rezoning subject to several conditions. First that the zoning change be limited to allow only a 94 unit senior citizen assisted living residence, not some future thing just only a 94 unit senior citizen assisted living residence. And, second, in the event that construction were not commenced within 3 years from the date of the zoning change were approved, the zoning revert to Residential "A".

So, I am addressing the zoning issue. I'm not... I haven't said... actually anything about the building approval. Everything that was granted was granted to CMI because what CMI presented to the Board and to the Town. Not what Mr. Klersy brought to the Board, not what Mr.... anybody else brought to the Board. Only what CMI brought forward. That's the only reason the zoning was changed. If you felt that the zoning should have been changed to a Planned Commercial District, your LUMAC plan would have reflected that when it was done up.

That's it.

SUPERVISOR FULLER: Thank you. May I have a motion to...

MRS. CAPONE: What a sentence. You people would be more happy if he puts up 12 houses...

AUDIENCE: Yes.

MRS. CAPONE: I cannot finish it... he ... with every teenager with with a bad muffler on his car.

SUPERVISOR FULLER: May I have a motion to close the public hearing?

GENTLEMAN: We have some more voices here....

MRS. MCDERMOTT: May I?

SUPERVISOR FULLER: Well, I think it's the same voices and I'm not sure it's different issues. So, my concern...

MR. KELLY: They speak for all of us.

SUPERVISOR FULLER: No, the concern is simply what is the item for tonight's public hearing. And, the item for tonight's public hearing is simply is a 2-year granted or is it not granted. It's not whether we want the project or we don't want the project. It's do we give them 2 additional years and I have to stick by the rules of the public hearing.

GENTLEMAN: Which say what?

SUPERVISOR FULLER: It's for a 2-year extension. Are you in favor of that or in opposition? That's it. That's all it is tonight. It's not whether you want the project or don't want the project. I think we've gone through that before. I think it went through the court system. I think all of those questions were answered. Tonight is simply the 2-year extension. And, what it is proposed is to come back... it's got to be the same project that was approved by the Town. There isn't anything else happening. There isn't any hidden agenda. There isn't any commercial development coming in. It's for the senior assistive living.

MRS. MCDERMOTT: What are the probabilities that it's going to be exact?

SUPERVISOR FULLER: I don't know but it expires a week from now and the opportunity for the senior facility to be there is what is weighing heavy on this Board tonight. The public hearing is for a 2 year extension.

MRS. MCDERMOTT: The 180 days have passed.

MR. KELLY: You can't extend something that doesn't exist. It expired in June, not July. It expired in 6 months... 180 days from December 21st, is June 21st.

MRS. MCDERMOTT: The rendering of the litigation...

MR. KELLY: It's not July, so you can't extend something that is non-existing.

SUPERVISOR FULLER: Would you like to address the legal question? And, the public hearing did not close by the way, since we did not get a motion. So, we can continue.

MRS. MCDERMOTT: Thank you.

SUPERVISOR FULLER: Would you like to address this?

TOWN ATTORNEY ALESSI: Do you want her to come up again? I would recommend before I talk you close the public hearing just so that there's no...

SUPERVISOR FULLER: Nobody is giving me the motion to close it, you saw that.

TOWN ATTORNEY ALESSI: Doris made a motion.

COUNCILMAN DAVIS: I did but I'll withdraw it because there is another comment.

GENTLEMAN: Go ahead, we're behind you.

MRS. MCDERMOTT: As Bob Marriott read from the minutes of your own meeting, it was 180 days from the rendering of a final decision which clears the

way for construction to begin. Today is 202, legally, isn't this contract from the minutes and all the ayes and a nay, no, whatever, aren't you legally bound by the minutes of that meeting? The 180 days are over. It's sort of a mute point. How can you give an extension when it's gone? I'd like you to answer if you could. Can you?

SUPERVISOR FULLER: Is there anyone else in the audience... Mr. Alessi prefers to wait until we've heard from whoever wishes to speak so that he can answer all of them.

MRS. MCDERMOTT: Okay. I'd also want to say that it's highly improbable that whoever in company x, y, z will do exactly the same thing. I know it has been state before but there are so many contingencies about CMI, it's highly unlikely and we're going to open ourselves up a world of problems. Thank you again.

SUPERVISOR FULLER: Okay. Mr. Alessi.

TOWN ATTORNEY ALESSI: I want to start with a question that is before the Board and then hopefully I'll address all the questions that people had posed with regard to legal issues. And, that's my role as Town Attorney is to respond to legal issues not policy issues.

With regard to the question that is on the table about the extension. I do not have the specific date in front of me but the request to come on the agenda with the extension request was within the 180 day time period. That request was made within the 180 day time period. I will go back and look, if necessary, to take a look at precisely the date but my clear understanding is that that request came before the 180 day period was up and it was through scheduling of the Town Board as to when this got on the agenda. I will also note that and sort of go this in logical order.

With regard to the distinctions that have been made, I think it bears repeating and some elaboration. 1. There are 2 approvals here. One is a zoning approval. The other is a building project approval. You can go look in the Bethlehem Town Code, there is great distinctions made between the 2.

As has been said, zoning changes run with the land. They do not run with an applicant. I refer you to Zigler's Rapkof's Law of Zoning Practice which is a well regarded treatise which establishes that proposition and Anderson Law of Zoning, another authority for that well established proposition. So, in it, I also refer historically – as some of you may know I was a Planning Board Attorney for 5 years, been through many, many, many building project approvals and zone changes. It has been the case throughout the history of this Town that there have been building... zone changes for districts that have been given and the land has been transferred and another party comes in. There were several quotations, and I think appropriately so, by the public about concerns about historically where that lapse is. Where you have an approval and 15 years later somebody shows up with a project. That was addressed in the building project approval. Now, there was quotations back and forth what preceded this but here was the final resolution by the Board. On... In paragraph A4 – and I am going to read it in its entirety because I think it is important so that both sides of this issue are fully explicated – Construction work shall begin on this building project within 180 days from the date of this approval and this building project shall be completed not later than March 10, 2001. The owner may apply to the Town for an extension of time beyond the starting date or the completion date specified in the event it becomes evident that – and I'm going to emphasize this next fragment – due to circumstances beyond the owner's control the building project will not be started. I have advised the Board and I will state it here publicly tonight the litigation is clearly something that was not beyond this owner's control. And, I don't believe any objective reasonable person would believe that litigation commenced against the project that wants to start is not something that is beyond an owner's control. So, when I look at that provision and I wasn't around when this was all happening

but I look at the plain language of the documents and that to me is a fairly straight forward conclusion that the litigation was beyond the owner's control. Because nobody has mentioned whether or not it could even come in and to me there had to be a demonstration, there was a basis upon which they could come in. It wasn't... to me it's not relevant whether or not this owner should come in based upon past history. It's only the black letter of the condition due to circumstances beyond the owner's control. And, again, I have advised the Board that that is the case here. And, given that they made their request within the 180 day time period, it's also my judgment that the request, as a legal matter, that this request is timely.

I'll also finally address the issue... actually 2 more points with regard to the owner. In the document there are 2 references to 2 different types of owners. There is an owner that is referenced in paragraph... owner has 2 definitions in this document, 2 applications. Its owner sometimes referenced as A-1 which is Epoch Senior Living Inc. and then there's just plain owner. So, there's a distinction between 2 types of owners in the document and as I understand it, Mr. Klersy is the owner of the property. And, he, in my judgment based upon the wording of the document – and I am not looking at anything other than the plain language of the document – that there references to 2 types of owners in this document and that with regard to the owner that it's my legal conclusion that Mr. Klersy, as owner of the property, has standing under A-4 to come in to make an application with regard to the time extension.

The last thing I am going to address is to get back to the difference between a zone change and building project approval. Everybody who has stated that there were great... was great specificity in the building project approval, I concur with cause I see it in black and white. This is to maintain the zoning on it. There is no request before the Board with regard to what this project will ultimately look like. None at all, that is not an issue that's before the Board. It wasn't noticed and it's not a subject of tonight's question that is before the Board. Certainly legitimate concerns about what this might ultimately look like if it goes forward. This document, in my judgment, is very clear. In building project approval there are very specific elaborations and identifications of what this project has to look like if it goes forward. We're not there yet. But, I can say that from my reading right now, that if something doesn't come in that looks just like this then that's going to have a very difficult time coming under this building project approval. That's not my judgment, that's the Member of the Town Board's judgment but as a legal matter I see that clearly from the black and white.

Final thing I will say, there is a provision in here that talks about if something comes in that is not the same as this. So, to address the concerns that what might happen tonight might facilitate somebody coming in and doing something different, there is a paragraph in here that talks about – and I refer you to A-12 of the building project approval – any amendments or modifications which are deemed by the Planning Board to be of sufficient magnitude to alter the general concept of the building project shall be subject to a public hearing prior to final action being taken by the Town Board. So, the protection that was... you're all concerned about is there in black and white. We are not there yet. I am not aware of any application where someone is requesting to change one word of the building project approval or one condition.

So, that is my legal analysis with regard to the questions that have been raised and if there is a question on a legal question that you had that I hadn't addressed, I'm sure the Supervisor will let me know. But, I think I've covered most of the issues. That is a legal analysis. It is a policy judgment on the question for the Town Board to vote on with regard to the question.

MR. MARRIOTT: Bob Marriott. Mr. Alessi you said you were going to read entire paragraph A-4 but you did not. It says such application shall be in writing and shall be submitted to the Town Board at least 30 days prior to the specified starting or completion date whichever may apply. You've stated that you feel since the request to extend was within the 180 days... while we disagree with you, I'd

like to know if the written request was made within that 30 days prior to the expiration of the 180 days.

MR. ALESSI: What do you have... I don't have all the documents in front of me. What date do you have, sir, for the 180 days?

MR. MARRIOTT: Approximately June 21st. So, they would have had to have made their written application prior to approximately May 21st.

MR. ALESSI: We'll have to go... I will have to go back and double check but I will say this... The law is fairly well established that with regard to time periods, the Town Board, in its judgment, can alter – because this is a legislative act, it's not an administrative act – the Town Board is empowered to alter any deadline inherent in its Town Board powers. And, that is a judgment that this Board can make assuming that the application did not come in 30 days before. And, I'm not there with that conclusion yet.

MR. MARRIOTT: Okay. Well, we disagree that they can extend something that is already expired. Thank you.

MR. ALESSI: There is a case and I refer you to the Appellate Division Third Department where they ruled about 6 months ago, sir.... I've sort of had your conclusion until a case came down from the Third Department that said that that could happen and that Board's had inherent power to do that in the legislative arena. And, if anybody has some case authority to the contrary, I would be more than happy to take a look at it.

MRS. MCDERMOTT: Just for the record, I'd like to state that as far as I know, we lost our second appeal on December 21st of the year 2000 and then in the papers that I got from Town Hall, it looks like John Cahill's letter to the Supervisor is dated June 8th. So, hopefully, that says that the time is up. Thank you.

MR. ALESSI: Just a note, the date upon which matters commence is not when a decision is rendered but when a decision is filed with the Court Clerk properly. And, I am not certain as to the date but I don't believe it happened on the same day that the decision was entered but Mr. Cahill may have some information as to whether there was a motion for leave to appeal or any other activity with regard to the final date.

MR. CAHILL: I believe it was filed on December 28th and then there would be a 30 day period within which to file the motion for leave to appeal. So that the final decision would not have been finalized until the end of January.

MR. ALESSI: Mr. Cahill accurately states that once a decision is rendered there is that 30 day period from the entry of the order from the Appellate Division from which to file the activity. I didn't spend a lot of time with regard to these dates simply because the Town Board has inherent authority to look at dates with regard to anything that is a legislative act and that law is fairly well established in New York State. It's different with Planning Boards on things like site plan approval, subdivision; those are more referred to as administrative decisions. These acts are more legislative decisions because they occur by the Town Board. And, again, if anybody has any contrary legal authority, I'd be more than happy to look at it and consider it.

MR. KELLY: Without my getting up, why doesn't it say that... why does it say that from the date of the decision. It doesn't say from the date that the decision is final. I say from the date of the decision, 180 days.

MR. ALESSI: Good question. As many things in the law, the way the normal lay person looks at a word, there are terms of art as lawyers call them in the profession and they tend to torture the English language a bit. But, the answer, sir, is that with regard to a decision, it's when... and my view is... it was the intent of the way this

was written is when this was final. That was really what was at play here. When this was final that's when the time was going to start. That was the intention because that's the way usually time periods are geared. If you look all through the Town Law, decisions of Planning Boards and such, final determinations. When a decision becomes final. And, that's the way a decision is, when it's final. So, that's the answer to your question for better for worse. That's the way Black's Law Dictionary and the law tortures Webster's Third.

MRS. MCDERMOTT: It should have been written like that.

SUPERVISOR FULLER: Is there a motion to close the public hearing?

MRS.MCDERMOTT: When do you vote?

SUPERVISOR FULLER: I don't know. Are we closing the public hearing or are we continuing?

The motion was made by Mr. Plummer to close the public hearing at 8:48 p.m.

SUPERVISOR FULLER: Thank you, Dan.

Seconded by Mrs. Davis and passed by the following vote:

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

Noes: None.

Absent: None.

Town Clerk

Supervisor Fuller convened the regular Town Board meeting following the close of the public hearing.

The Supervisor asked for a vote regarding the previous public hearing from the Town Board.

Councilman Lenhardt asked Mr. Alessi if in the building project approval for a senior assisted living facility the footprint and the number of units is smaller than the one that is in front of the Board now, and does the process have to start all over again. Mr. Alessi said the decision is a decision of the Town Board indicating not so much a legal decision but the framework to the answer is found in paragraph A-12 which says any amendments or modifications which are deemed by the Planning Board to be of sufficient magnitude to alter the general concept of the building project shall be subject to a public hearing prior to final action being taken by the Board. He said that provision doesn't say you go to square 1, noting that is pretty clear. But, he said the judgment is in the hands of the Town Board. He said the question is whether it would alter the general concept and that would be a judgment by the Town Board as to whether something smaller alters the concept or whether it is a one-way street. He said if it is smaller, based upon all that has occurred before the document came to fruition, people would recognize that as not altering the concept. He said he does not want to speculate too much because it could be smaller in size or units but it could have a greater affect in certain areas and a greater adverse affect than even the project of a larger size. He said he prefers to have the specific facts but the theoretical answer to the question is a smaller project could trigger a sufficient magnitude to alter the general concept. Councilman Lenhardt thanked Mr. Alessi.

Supervisor Fuller asked if there were any other questions or comments from the Town Board.

COUNCILMAN BURNS: As a Town Board member who voted no on the rezoning back several years ago, expressly for the reason that rezoning runs with the land and afraid of the conditions that might come up, what makes sense to me and I believe is reasonable and fair to the residents, without the commitment and as Mr. Cahill says no firm agreement of Epoch to build and develop the assistive living facility proposed. I cannot vote in favor of Local Law 8.

Supervisor Fuller asked if there were any other questions from the Board. She called for a vote on the 2-year extension of time for construction to commence for Planned Commercial District No. 5 on Delaware Avenue, Delmar.

The motion was made by Mrs. Davis to approve the adoption of Local Law No. 8 of 2001 extending the time period for construction to commence by 2 years for Planned Commercial District No. 5 on Delaware Avenue, Delmar.

COUNCILMAN DAVIS: And, I will give my reasons. May I do that?

At the time I felt that the usage of... at the time that we voted on this initially I felt that senior housing was a very viable use of that particular piece of property. It was for profit, which I felt was significant to the Town. I think we all know that that is a necessary part of what's happening in this community. I felt that senior housing was needed. I had listened very carefully to residents throughout the Town, not just the residents who live in the immediate adjacent area. I'm still hearing as I travel through Town and I listen carefully and I think most people in the audience know that I listen carefully and that I hear what people are saying. I'm still hearing from seniors, as well as, their children that we need senior housing and that is a reasonable location for it. I find it interesting that this evening, I'm hearing all these positive things about CMI from some of the residents who testified. And, what a positive facility this was going to be and yet they commenced with significant litigation. So, I find that sort of a little contradictory. Maybe I haven't been listening carefully enough and at the same time to echo what we have heard we know... we all know, the residents know, the Board knows, the Town knows that this facility would have been there had litigation not pursued and not been extended as it had been and I think it only fair to the community, to the seniors who live here who want that kind of housing and it's not the same as Van Allen Farms. It's not the same as the other types of senior housing in this community at this time. It's different in many ways and I feel as long as the conditions – and they were very specific conditions and extensive conditions that were set on the building project approval if ultimately there is someone who wishes to purchase that property I feel that it is fair to everyone. I will vote in favor.

Supervisor Fuller asked for a second to the motion.

The motion was seconded by Mr. Lenhardt.

COUNCILMAN LENHARDT: With some comments. I concur with Doris's statements about hearing from other members of the community especially this year since I'm out knocking on doors. The seniors... I am in favor of a senior assisted facility of this type in this location. However, if one comes forth and significantly increases the footprint or the number of units in the structure on the building project approval basis, I will vote against it. I would like to see a smaller footprint, fewer units as I have indicated but this... what is before us right now is a reasonable request to extend. Normally I do not take... look favorably on developers that put our Town through a process such as this and then can't perform. But, there were circumstances in this case beyond the owner's control and therefore I feel they deserve at least a 2-year extension.

SUPERVISOR FULLER: I also am voting in favor and I am voting based on a principal that I've had from the time I was elected to serve this community and hopefully will continue to serve this community to do the very best job that I possibly can for all of our community. And, as all of you know that were with us 3 years ago as we went through this, I spoke about the need to protect our seniors. Our seniors have built this community and they have a right to be here. And, Mr. Klersy, I hope you are very successful in finding someone very soon to build this project.

The motion was passed by the following vote:

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

Noes: Ms. Burns.

Absent: None.

- - -

Supervisor Fuller thanked everyone for being in attendance and their patience.

The Supervisor noted there was a SEQR resolution before the Board to be adopted. The following resolution was presented.

TOWN BOARD
TOWN OF BETHLEHEM
SEQR RESOLUTION
CLASSIFICATION OF ACTION / DETERMINATION OF SIGNIFICANCE
APPLICATION TO EXTEND THE TIME PERIOD TO COMMENCE CONSTRUCTION
PLANNED COMMERCIAL DISTRICT NO. 5

- WHEREAS, the Town Board on July 22, 1998 adopted Local Law No. 8 of the Year 1998 which amended the zoning district designation, from Residence A District to Planned Commercial District, on a 6.71 acre parcel of land located within the Town of Bethlehem at 467 Delaware Avenue; and,
- WHEREAS, said zoning amendment was adopted with certain conditions attached thereto, including provisions that: (a) restrict future land use on the site to an assisted living facility for senior citizens, (b) restrict the maximum dwelling unit density to 94 units, (c) require future development on the site to conform substantially with the concept plan for development that was presented to the Town at the time of the zone change, and (d) require construction on the site to commence within three (3) years of the date of adoption of the zoning amendment; and,
- WHEREAS, the Town Board, pursuant to the State Environmental Quality Review Act (SEQR) and prior to adopting the zoning amendment, conducted a thorough environmental review of the action and on June 10, 1998 adopted a Resolution which issued a Conditioned Negative Declaration for the zoning change and subsequent construction of a 94 unit assisted living facility on the site; and,
- WHEREAS, subsequent to the zoning amendment, application was made under the Town's Planned Development District regulations for Building Project Approval to develop the site in conformance with the conditions of the rezoning and the Conditioned Negative Declaration; and,
- WHEREAS, the Town Board on March 10, 1999, after thorough review of the Building Project application, approved said application to permit construction of a 94 unit assisted living facility on the site; and,
- WHEREAS, neighbors living in the vicinity of the project site subsequently filed a lawsuit challenging the validity of the rezoning and its associated SEQR review; and,
- WHEREAS, the start of construction on the site was consequently delayed pending the outcome of the lawsuit, which in December 2000 was decided in favor of the Town; and,
- WHEREAS, Local Law No. 8 of the Year 1998 requires that construction on the site must commence by July 22, 2001 or zoning on the site would revert to its former zoning designation – Residence A District; and,
- WHEREAS, the Town Board has received a request from the owner of the parcel, Henry J. Klersy, to amend the provision in Local Law No. 8 of the Year 1998 that requires commencement of construction within three (3) years of adoption of that law, and,
- WHEREAS, the request from Mr. Klersy cites the 'protracted litigation' as the cause of delay in starting construction on the site; and,

WHEREAS, the Town Board is considering adoption of Local Law No. 8 of the Year 2001 which would amend the above referenced provision by extending the timeframe for commencement of construction an additional two (2) years; and,

WHEREAS, the proposed Local Law would effect only the date by which construction must commence and would have no other impact on the requirements or conditions of previous zoning, SEQR, or Building Project approvals; and,

WHEREAS, the Town Board has received a short Environmental Assessment Form ("EAF") for the proposed action completed by the Town Planning Department, and;

WHEREAS, the State Environmental Quality Review Act (SEQR) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund, or approve an action until it has complied with the requirements of SEQR, and;

WHEREAS, 6 NYCRR 617.6(a) requires that when an agency receives an application for approval of an action it must: (1) determine whether the action is subject to SEQRA, (2) determine whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District, and;

WHEREAS, 6 NYCRR 617.6(b)(1) indicates that when a single agency is involved, that agency will be the lead agency when it proposes to undertake, fund, or approve a Type I or Unlisted action, and;

WHEREAS, the Town Board has independently considered the information provided in the EAF and comments on the proposed action provided by the Town Planning Department;

NOW, THEREFORE, BE IT RESOLVED,

that the Town Board hereby determines that:

- 1) adoption of the proposed Local Law constitutes an Unlisted action which is subject to SEQR,
- 2) the proposed action to extend the timeframe for commencement of construction does not involve a federal agency or any other agency,
- 3) the proposed action is not located in, or within 500 feet of, an Agricultural District and, therefore, is not subject to the provisions of the Agriculture and Markets Law,
- 4) a short EAF is adequate for determining the significance of the proposed action, and;

BE IT FURTHER RESOLVED,

that the Town Board hereby declares it is lead agency with respect to SEQR review of the proposed action, and;

BE IT FURTHER RESOLVED,

that based upon its review of the proposed action and the EAF, and comparison with the Criteria for Determining Significance found at 6 NYCRR Part 617.7(c), the Town Board hereby finds that the adoption of Local Law No. 8 of 2001 constitutes an action which will not have a significant adverse impact on the environment and, therefore, does not require preparation of a Draft Environmental Impact Statement, and;

BE IT FURTHER RESOLVED,

that this determination is based upon the following facts and conclusions:

1. The proposed action involves extension of a time limit imposed on the start of construction for a previously approved 94 unit assisted living facility.
2. The facility was proposed and approved under the Town's Planned Development District regulations. This approval process included rezoning of the site to Planned Commercial District and subsequent review and approval of Building Project drawings by the Town Planning Board and the Town Board.
3. As part of the review process for the project, a thorough environmental review was conducted by the Town Board and the Town Planning Board. This review was conducted pursuant to the SEQR regulations and culminated on June 10, 1998 in the issuance of a Conditioned Negative Declaration by the Town Board – the SEQR lead agency for that review.
4. The request for the extension of time is due to delays caused by litigation over the project. This litigation was initiated by neighbors to the project site who challenged the validity of both the rezoning and previous SEQR review.
5. The proposed local law would affect only the time frame within which construction must start. The proposed local law would extend this time period by two years – the approximate time period that the project was in litigation.
6. The proposed local law would have no other affect on previous requirements, conditions, approved building construction plans, site development plans or

other factors associated with project. All other requirements and conditions of Local Law No. 8 of 1998, the Conditioned Negative Declaration issued by the Town Board on June 10, 1998, and the Building Project approved by the Town Board on March 10, 1999 would remain in full force and effect.

BE IT FURTHER RESOLVED,

that this determination of significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law, and;

BE IT FURTHER RESOLVED,

that the Town Planning Department is hereby authorized to file any and all appropriate notices so that the intent of this Resolution is carried out.

On a motion by Mrs. Davis, seconded by Mr. Lenhardt, and by a vote of 4 for, 1 against, and 0 absent, this RESOLUTION was adopted on July 11, 2001.

- - -

Supervisor Fuller said the SEQR resolution needed to be voted on prior to the vote for approval and therefore she called for a second vote to approve Local Law 8 of 2001.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the adoption of Local Law No. 8 of 2001 extending the time period for construction to commence by 2 years for Planned Commercial District No. 5 on Delaware Avenue, Delmar. The motion was passed by the following vote:

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

Noes: Ms. Burns.

Absent: None.

The next item was a request for approval for location of Individual Residential Alternative home at 30 Longmeadow Drive, Delmar from Living Resources, Schenectady, New York. Supervisor Fuller read the letter sent by Individual Residential Alternative Resources. She noted Mr. Erlich was in attendance if there were any questions.

Questions were posed and answered by Mr. Erlich. Such items as maintenance and improvements to the property for the young men who will be living at the residence; parking and signage situation in the neighborhood; particular use in mind, however, if this changes what might the use be; the actual use of the premises and whether it would be a drug or alcohol residence; will this residence be limited to 4 persons; who will actually own the property; possibility of someone else taking over the property in the event Living Resources goes out of business; how many people will supervisor and how many shifts will there be; compliance with zoning in the area; and where the supervisor will be during the day and/or night.

Mr. Erlich indicated improvements will be made to the premises and there is no effect on property values either negative or positive. He said the home will be well maintained. He also indicated the supervisor will be on premises, most likely in the den or living room area.

Statements were given by residents indicating they will be more than willing to receive this home into the neighborhood and feel everyone will see the benefit. Support of Living Resources was also indicated.

The Board stated they are in favor of the facility and noted they have been good neighbors at their other locations. They know that Living Resources does a wonderful job for the people they serve. Some residents spoke in favor of this home being located on Longmeadow Drive.

Supervisor Fuller noted she has asked Mr. Erlich of Living Resources to meet with the residents as soon as possible because she knew there were concerns.

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

She felt it would be best addressed if the residents had an opportunity to meet with Mr. Erlich. Residents asked when that would take place. Supervisor Fuller said as soon as Mr. Erlich is ready. Mr. Erlich said he is happy to meet with people and on a continuous basis.

Supervisor Fuller asked for a volunteer contact person for Mr. Erlich to contact and get everyone together. One resident volunteered and was asked to give the name and phone number to Mr. Erlich.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve the location of an Individual Residential Alternative home at 30 Longmeadow Drive, Delmar. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

- - -

Supervisor Fuller thanked everyone for their patience.

The following item was to consider adoption of a resolution for SEQR coordination review process on application of Independent Wireless One Corporation, New Scotland Road, Slingerlands. Supervisor Fuller noted 2 weeks ago the application was forwarded to the Planning Board for review. She said the application for amendment of the Building Project Approval and the SEQR Lead Agency Coordination information needs to be referred.

Supervisor Fuller asked if there were any questions. Comments were made regarding the location of the tower and that there are challenges to mitigating its impact. Recommendation was made that the Board forward this and that a consultant be hired to review the application and that the fee be paid by the applicant. Mention was made that it is believed that this is a reasonable request and this type of review has been done in other areas.

The motion was made by Mrs. Davis to approve hiring a consultant and that the fee be paid by the applicant.

Question was raised if anyone has spoke with the Chief of Police and emergency personnel with regard to the location of this tower. Supervisor Fuller said an attempt has been made but it has not occurred. Mention was made that the Town has a consultant at the current time. The Supervisor noted the consultant is looking at a location but it has not been resolved as yet. Question was raised if this request might be hooked into the existing consultant's review. The current consultant was hired for a particular job and it was not known if this could be coupled together. Ms. Slevin noted these are independent issues. She said she has calls into the office of the Chief of Police and has requested he call. She said she also put calls into the Sgt. as well. She said IWO is ready to make a commitment to space being available if it would accommodate the needs of the Police. She said that is clearly a commitment that Independent Wireless One is willing to make with respect to the application. She said with respect to review by a consultant, they understand that it is the obligation of IWO to pay for a consultant. She said they accept that as a condition unilaterally. She said she did not know if that assists the Board at all.

Supervisor Fuller said the Town has not heard back from the consultant that has been hired by the Town over the location of a tower to improve communications for the Town. She said it is entirely separate.

Town Attorney Alessi asked to be clear that Councilman Davis was asking for a consultant that will look at the scope of issues that are tended to the

application which include looking at the position that this is the only location in the Town where it can go to meet the needs of IWO and the consultant would look at that issue, as well as, alternative locations, as well as, the aesthetics and other items they typically look at in advising communities on these types of poles. He said he wanted to understand that the willingness of IWO to do this is not with a limitation on the scope but they would be advised as to the scope to make sure that it is something IWO would also view as reasonable. Ms. Slevin agreed that to the extent that it relates to the IWO application, they would accept the obligation to pay for the fees for review. She corrected one statement referred to and that was that this was the only location, in fact, she said another site has already been approved on an existing water tower. She said IWO is currently pursuing a lease on a second water tower, noting it is 3 sites all together. She said she did not want to misrepresent that for the Board. Mention was made that the concern is for this one site. Ms. Slevin explained it is the 3 sites that provide the coverage that IWO and Sprint needs within the Town of Bethlehem.

Question was raised as to whether there will be a public hearing held anywhere along the process. Mr. Lipnicky said the Planning Board will have to decide if they feel this is a significant enough change to warrant a public hearing.

The motion was seconded by Ms. Burns and passed by the following vote:

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

Noes: None.

Absent: None.

- - -

The following resolution was presented and passed:

TOWN BOARD
TOWN OF BETHLEHEM
SEQR RESOLUTION
CLASSIFICATION OF ACTION AND LEAD AGENCY DESIGNATION
APPLICATION FOR AMENDMENT TO BUILDING PROJECT APPROVAL
BPA NO. 27 / PCD NO. 4
PRICE CHOPPER PLAZA

- WHEREAS, the Town Board of the Town of Bethlehem has received an application, Environmental Assessment Form and related materials from Independent Wireless One Corporation for an amendment to Building Project Approval No. 27; and,
- WHEREAS, the stated purpose of said application is to construct a telecommunications facility consisting of a 100 foot tall PCS communication monopole with associated equipment building, fencing and gravel access drive; and,
- WHEREAS, the project area consists of approximately 0.58 acres of land located on the existing site of the Price Chopper Plaza shopping center; and,
- WHEREAS, the current zoning of the subject parcel is classified Planned Commercial District No. 4; and,
- WHEREAS, Chapter 128, Article 5 of the Code of the Town of Bethlehem contains procedures for the establishment of Building Projects in a Planned Commercial District, and said procedures authorize the Town Board to approve such Building Projects upon referral to, and recommendation of, the Town Planning Board; and,
- WHEREAS, Building Project Approval No. 27, which authorized the construction of Price Chopper Plaza, requires that any changes or amendments to the approved plans must be submitted to the Town Board for further review and approval; and,
- WHEREAS, the State Environmental Quality Review Act (SEQR) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund or approve an action until it has complied with the requirements of SEQR; and,
- WHEREAS, the "Memorandum of Understanding between the Town of Bethlehem Town Board and Planning Board for Planned Development Districts" (MOU), adopted by the Town Board on February 27, 1991, sets forth procedures for incorporating the requirements of SEQR with the requirements of Chapter 128, Article 5 of the Code of the Town of Bethlehem for the review of

Building Projects within Planned Commercial Districts; and,
WHEREAS, the SEQR regulations found at 6 NYCRR 617.6(a) require that as soon as an agency receives an application for approval of an action it shall determine: (1) whether the action is subject to SEQR; (2) whether the action involves a federal agency; (3) whether other agencies are involved; (4) the appropriate preliminary classification of the action; (5) whether a full or short environmental assessment form is necessary; and (6) whether the action is located in an agricultural district and subject to applicable provisions of the Agriculture and Markets Law; and,
WHEREAS, 6 NYCRR 617.6(b)(2) & (3) establishes procedures for coordinated review of Unlisted actions where more than one agency is involved; and,
WHEREAS, the Town Board has received and considered a preliminary report from the Town Planning Department regarding SEQR classification and referral,
NOW, THEREFORE, BE IT RESOLVED,
that the Town Board of the Town of Bethlehem hereby determines that the application by Independent Wireless One Corporation to amend Building Project Approval No. 27, to establish a telecommunications facility, constitutes an action that is subject to SEQR; and,
BE IT FURTHER RESOLVED,
that the Town Board hereby determines that the preliminary classification of the action shall be designated as “Unlisted”; and,
BE IT FURTHER RESOLVED,
that the Town Board hereby determines that at minimum a Full Environmental Assessment Form is necessary to determine the significance of the action; and,
BE IT FURTHER RESOLVED,
that the Town Board hereby determines that the proposed action is not located in an established agricultural district and therefore is not subject to the provisions of the Agricultural and Markets Law; and,
BE IT FURTHER RESOLVED,
that the Town Board hereby determines that coordinated SEQR review of the action will be undertaken in accordance with 6 NYCRR Part 617.6 and the Memorandum of Understanding for Planned Development Districts approved by the Town Board on February 27, 1991; and,
BE IT FURTHER RESOLVED,
that the Town Board hereby determines that there is no federal agency involvement with the proposed application; and,
BE IT FURTHER RESOLVED,
that the Town Board hereby determines that the other involved agencies with respect to this action may include: (1) the Planning Board of the Town of Bethlehem and (2) the Board of Appeals of the Town of Bethlehem; and,
BE IT FURTHER RESOLVED,
that the Town Board hereby determines that interested agencies with respect to this proposal may include the Albany County Planning Board (General Municipal Law Section 239 review); and,
BE IT FURTHER RESOLVED,
that the Town Board hereby authorizes and directs the Town Planning Department to initiate coordinated review of the action by filing a copy of the application, SEQR materials and appropriate notice with involved agencies, and notifying said agencies that a Lead Agency must be agreed upon within thirty (30) calendar days of the date of mailing said notice; and,
BE IT FURTHER RESOLVED,
that the Town Board hereby authorizes and directs the Town Planning Department to notify other involved and interested agencies of the proposed action and to make referral of the application to the Albany County Planning Board; and,
BE IT FURTHER RESOLVED,
that the Town Board as an involved agency with the broadest governmental powers for investigation of the environmental impacts of the proposed action, hereby declares its desire to assume Lead Agency status for the purpose of SEQR review; and,
BE IT FURTHER RESOLVED,
that having notified the involved agencies of the Town Board's desire to be Lead Agency, the Town Board hereby declares it shall be Lead Agency for SEQR review of the proposed action unless objection to such designation is received from any involved agency within the above specified thirty day (30) time period; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby refers the application to the Town Planning Board for a recommendation on both a SEQR determination of significance and the proposed Building Project amendment, said recommendation to be provided consistent with the procedures as outlined in the Memorandum of Understanding between the Bethlehem Town Board and Planning Board for Planned Development Districts.

On a motion made by Ms. Davis seconded by Ms. Burns, and a vote of 5 for, 0 against, and 1 absent, this RESOLUTION was adopted on July 11, 2001.

- - -

Mr. Secor stated as was pointed out at the last minute, IWO has an application pending to go on the Kenwood Avenue Water Tank and mentioned that he held it off of this meeting because of this item and asked if it is agreeable to bring it onto the next agenda. Supervisor Fuller said this would be acceptable.

The next item was a request from Bruce Secor, Commissioner of Public Works, for approval of award of bid for MOSCAD – Remote Terminal Monitoring Units – to low bidder Wells Communication Service, Inc., Troy, New York.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for MOSCAD, Remote Terminal Monitoring Units, to the low bidder Wells Communication Service, Troy, New York. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The following item was a request from David Austin, Administrator, Parks and Recreation Department, for approval of acceptance of donations.

The motion was made by Mr. Plummer and seconded by Ms. Burns to approve the acceptance of the following donations:

Albany Rotary Club

Maple tree and plaque in memory of Gregory McQuide, planted at Elm Avenue Park – estimated value \$450;

Bethlehem VFW

Dwight D. Eisenhower green ash tree and plaque honoring WWII veterans, planted at Elm Avenue Park – estimated value \$300;

Carolyn Bennett

Large sofa for the “Pit” after school program – estimated value \$200; and

Bethlehem Babe Ruth

Bronze plaque at Elm Avenue Park field #11 in memory of Russell Ellers – estimated value \$250.

The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The next item was a request from Administrator, David Austin, Parks and Recreation Department, for approval of appointment of summer personnel.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the appointment of summer personnel as requested by David Austin, Administrator, Parks and Recreation Department, as listed in his Memorandum dated July 11, 2001 at the titles and salaries indicated. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The following item was to accept the resignation of David Austin, Administrator, Parks and Recreation Department. Supervisor Fuller noted the letter confirmed his announcement of June 25, 2001 of his resignation from the position of Administrator, Parks and Recreation Department, and said his last day of work would be July 13, 2001. Supervisor Fuller said it was with mixed feelings that they accept his resignation.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to accept with deep regret the resignation of David Austin as Administrator, Parks and Recreation Department. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The following item was to approve appointment of Election Inspectors and Poll Clerks as recommended by the Republican Committee.

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

RESOLVED, that pursuant to Article 3 of the Election Law, the attached list of persons (List on file in Town Clerk's Office) be and they hereby are appointed Election Inspectors and Poll Clerks as recommended by the Republican Committee to serve for the conduct of elections from July 15, 2001 through July 14, 2002.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The next item was to approve the appointment of Election Inspectors and Poll Clerks as recommended by the Democratic Committee.

The following resolution was presented for adoption by Ms. Burns, and seconded by Mr. Plummer:

RESOLVED, that pursuant to Article 3 of the Election Law, the persons on the attached list (List on file in Town Clerk's office) be and they hereby are appointed Election Inspectors and Poll Clerks as recommended by the Democratic Committee for the term beginning July 15, 2001 through July 14, 2002 as per attached list.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The next item was a recommendation from Engineering Services Administrator, Michael Cirillo, for acceptance of sidewalk/bike path easement at 425 and 435 Feura Bush Road. Supervisor Fuller said the easement is a requirement of final plat approval for this 4 lot subdivision.

The motion was made by Mr. Plummer and seconded by Ms. Burns to approve the acceptance of a deed from Mr. Frank J. Nolan, Liverpool, NY; Ms. Kathy N. Gombel, Delmar, NY; and Ms. Martha S. Brown, Glenmont, NY for a sidewalk/bike path easement at 425 and 435 Feura Bush Road, Delmar in the Nolan-Brown Subdivision as recommended by Engineering Services Administrator, Michael Cirillo, Department of Public Works. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The following item was a recommendation from Karen Pellettier, Senior Services Director, for acceptance of resignation of Clerk Typist. Supervisor Fuller noted the employee was Joan Giordano and the resignation was effective July 1, 2001. She noted Joan and her husband have been members of the senior volunteer program and they have moved out of state to be closer to their children.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to accept with regret the resignation of Joan Giordano as Clerk Typist in the Senior Services Department, effective July 1, 2001 as recommended by Karen Pellettier, Senior Services Director. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

The next item was a request from Superintendent of Highways, Gregg Sagendorph, for approval of disposal of vehicles at auction.

The motion was made by Ms. Burns and seconded by Mr. Lenhardt to approve the request of Highway Superintendent, Gregg Sagendorph, for disposal of vehicles at auction by Northway Auto Exchange, Inc., Clifton Park, NY as listed in his Memorandum dated July 6, 2001 and on file in the Town Clerk's office. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.
Absent: None.

Supervisor Fuller asked if anyone wished to address the Board.

Mrs. Capone, resident, asked Councilman Plummer if David Austin was going to be a lobbyist. Councilman Plummer said he will not be a lobbyist but will be working at Worker's Compensation for the State.

The Supervisor asked for a motion to adjourn to Executive Session to discuss personnel matters.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve adjourning to Executive Session to discuss personnel matters. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The motion was made by Mrs. Davis and seconded by Ms. Burns to adjourn the regular Town Board meeting at 10:03 p.m. The motion was carried by the following vote:

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

Noes: None.

Absent: None.

Town Clerk

EXECUTIVE SESSION

There was no formal action taken at the Executive Session.