

TOWN BOARD
JUNE 11, 2002

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

PRESENT: Sheila Fuller, Supervisor
George Lenhardt, Councilman
Doris M. Davis, Councilman
Thomas Marcelle, Councilman
Kathleen A. Newkirk, Town Clerk
Robert J. Alessi, Esq., Town Attorney
ABSENT: Daniel G. Plummer, Councilman

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Supervisor Fuller welcomed everyone to a regular meeting of the Bethlehem Town Board and invited them to join in the pledge of allegiance.

The first item was the presentation of the 2001 Audit Report prepared by the independent public accounting firm of Marvin & Company, PC. Mr. Purinton gave an overview of the audit that was completed. He thanked the Board for allowing them to do the audit for the Town. He said the financial statements are fairly stated in accordance with generally accepted accounting principles except for the general fixed asset account group. He said they have a qualification to the report with respect to the completeness of those records. He further noted they have worked with Comptroller Kehoe to identify the circumstances involved and are in the process of helping her deal with that situation and the implementation of GASPY 34 which is the new financial reporting model.

Mr. Purinton said there is also a report on internal control and compliance with laws and regulations, noting they only looked at those having a financial accounting effect. He said with respect to these laws and regulations, they did not find any material non-compliant with these laws and regulations. He said that is a clean report for that area.

Mr. Purinton said with respect to internal control, with their understanding of the process that the Town employs to maintain an adequate internal control system over the financial reporting process, they did not find any material weaknesses with respect to that process.

Mr. Purinton said the other letter was a standard letter addressed to the Board describing briefly an overview of some of the responsibilities they have and said there are no matters that are of any issue, it was making certain that the Board understands what their responsibilities were with respect to the audit.

Mr. Purinton acknowledged the fact that there was complete cooperation from the Comptroller and her staff, the Town Clerk and others and thanked everyone for that cooperation. He said they appreciate everyone's efforts and having them come in and help with the audit requirements for the Town. Supervisor Fuller thanked Mr. Purinton and Mrs. Kehoe.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to accept the audit report, as well as, the overview as presented in the accompanying Memorandum from Comptroller Kehoe as presented. The motion was passed by the following vote:

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

The next item was a request from Comptroller, Judith Kehoe, to adopt a resolution to amend and restate the model deferred Compensation Plan, in accordance with the requirements of the Economic Growth and Tax Relief Reconciliation Act of 2001.

Councilman Davis asked how many employees now take advantage of the Deferred Compensation Plan. Comptroller Kehoe noted we have outstanding participation in the plan with about 210 full time employees. She said there are about 110 employees who are participating in the plan. She said the minimum amount per pay period is a \$20 deferral and goes up from there to a maximum of \$11,000 per year. She said a lot of people have realized that this is an ideal way to put aside some money on a tax deferred basis and have it available. She said the nice thing about this plan is that you do not have to wait until a certain age in order to draw it out. Councilman Davis said she thinks the increase in what people can actually defer is significant and this was to their advantage. Comptroller Kehoe agreed and said the IRS did make a conscientious effort to try to make the various plans so that the terms were a little more equalized.

Councilman Davis also mentioned the roll over that people can take advantage of that they could not do before. Comptroller Kehoe said that was correct and that there is a new tax credit in the code that might benefit some employees if they earn less than a certain amount, she believed it was \$50,000 for a joint return, that they can take a direct tax credit on their 2002 income tax returns.

Comptroller Kehoe noted these are all positive changes but any time the IRS changes the regulations, that forces a change in the New York State model plan which is used as the basis for the model plan document of the Town.

Councilman Lenhardt asked what investment options the employees have with this plan. Comptroller Kehoe said there is a list of about 15 different investment options and it ranges from a boilerplate, no risk savings plan which is the lowest fixed return, all the way up to moderately risky to what would be considered very aggressive funds as well. She said the return could go up or down. She said they do not make any guarantees on the performance of the funds but that is all explained to the employee. She said they are given a prospectus and they make their own investment decisions just as they would with any other investments they might have.

The following resolution was presented for adoption:

**Deferred Compensation Committee Resolution
To Amend and Restate the Model Plan**

WHEREAS, the New York State Deferred Compensation Board (the "Board"), pursuant to Section 5 of the New York State Finance Law ("Section 5") and the Regulations of the New York State Deferred Compensation Board (the "Regulations"), has promulgated the Model Deferred Compensation Plan for Employees of the Town of Bethlehem (the "Model Plan") and offers the Model Plan for adoption by local employers;

WHEREAS, the Town of Bethlehem, pursuant to Section 5 and the Regulations, has adopted and currently administers the Model Plan known as the Deferred Compensation Plan for Employees of the Town of Bethlehem;

WHEREAS, effective January 1, 2002, the Board amended the model Plan to adopt provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") as they apply to the Model Plan and to adopt modifications that update certain administrative provisions to accommodate prospective state-of-the-art methods and procedures;

WHEREAS, the Board has offered for adoption the amended and restated Model Plan to each Model Plan sponsored by a local employer in accordance with the Regulations; and

WHEREAS, upon due deliberation, the Town of Bethlehem has concluded that it is prudent and appropriate to amend the Deferred Compensation Plan for

Employees of the Town of Bethlehem by adopting the amended and restated Model Plan.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Bethlehem hereby amends the Deferred Compensation Plan for Employees of the Town of Bethlehem effective June 11, 2002 by adopting the amended and restated Model Plan effective January 1, 2002, in the form attached hereto as Exhibit A.

The foregoing resolution was presented for adoption by Councilman Davis, seconded by Councilman Marcelle and adopted by the following vote:

AYES: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis.

NOES: None.

ABSENT: Mr. Plummer, Mr. Marcelle.

The next item was a request from NIGRO Companies for consideration of amendments to the Building Project Approval for Bethlehem Town Center, Route 9W, Glenmont. Supervisor Fuller said the amendments sought are to allow for the project to be constructed in phases; allow for the project to be subdivided; authorize the development to proceed in the name of Bethlehem Associates, a Nigro Company entity; and extend the time period for commencement and completion of construction of the project currently established in the Town Board's approval. She asked Mr. Naughton to address this request.

Mr. Naughton noted he was standing in for Bob Sweeney and indicated Steve Powers and Todd Curley from Nigro Companies were also in attendance. He said the first item requested is an extension of the start date for construction. He said they currently have a date of July 23 for commencing construction and there are 2 approvals required that have not been received. One is the Army Corps of Engineers permit and noted the application is pending. The other is the Department of Transportation approval for the offsite improvements, indicating the application has been submitted. Mr. Naughton said they do not know the date these will be received but expect it to be soon. He said they are requesting a 12 month extension of the start date. He said they cannot begin unless the Army Corps has issued their permits.

Mr. Naughton said on the back side of this, they are requesting an extension of the completion date to give the full 2 years to complete the project. He said the intension is that, as soon as, they receive approvals from Army Corps and Department of Transportation, they will proceed with construction.

Mr. Naughton said the other item is a separate letter requesting phasing of the project. He said because of the time that has transpired, they have a need to start this in phasing with Walmart beginning in phase 1. He said the current approval does not provide for this and so they are asking for an amendment of the approval. He said that brings in other issues in terms of a subdivision and also said this is finance driven and considerations from occupants of the property.

Mr. Naughton said the first item they would like to take care of tonight is the extension of the start date for construction. He said the other item is just a referral to the Planning Board.

Supervisor Fuller asked if it was possible to do the extension of time for construction with Town Board approval at this meeting. Town Attorney Alessi confirmed the time of construction can be done by the Town Board separate and apart from the referral which needs to go to the Planning Board.

The motion was made by Mrs. Davis and seconded by Mr. Marcelle to approve the extension of time for commencement of construction and the extension of the completion date for one year (12 months) as requested for the proposed Bethlehem Town Center to be construction by Bethlehem Associates, a Nigro Company entity. The motion was passed by the following vote:

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

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Councilman Davis asked if there was any plan for changes in the actual project or if they are keeping the same plan that was approved by the Planning Board and was seen by the Town Board numerous times, and if this was just an extension of time. Mr. Naughton said that was correct. Town Attorney Alessi said the extension of time has no change with it. He said it remains to be seen what happens and that is what the referral to the Planning Board is as to how it may change the project. He said the project will, obviously, be changed in the extent of some lines on a map. He said those may be totally insignificant but that is something that will be the first look by the Planning Board and they will make a recommendation. He said the Town Board will make their own independent judgment when it comes back. Councilman Davis thanked Mr. Alessi.

Councilman Lenhardt asked with the 2 year after commencement of construction at the end of the second year, if that includes phase 2 also. Mr. Naughton said that is their intension absolutely. Supervisor Fuller thanked Mr. Naughton.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to refer the request to the Planning Board for review and recommendation. The motion was passed by the following vote:

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

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Mr. Naughton thanked the Board. Supervisor Fuller thanked Mr. Naughton for being at the meeting.

The next item was a request from Building Inspector, Kevin Shea, for approval of construction trailer permit at 10 Stoney Brook Drive, Glenmont. Mr. Shea noted he received an application for this permit. He said the trailer location will not interfere with any traffic and therefore, he recommends the approval of this construction trailer.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the issuance of a construction trailer permit for Charlew Construction Co., Inc., Schenectady, New York for Dowerskill Village to be located at 10 Stoney Brook Drive, Glenmont as recommended by Kevin Shea, Building Inspector. The motion was passed by the following vote:

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

The following item was a request from Kevin Shea, Building Inspector, for approval of a dumping permit (clean fill) for premises 789 Route 9W, Glenmont. Mr. Shea noted this is a renewal of a permit for Carl and Margaret Barkman. He said the recommendations were received from the Engineering Division of Department of Public Works to continue the clean fill dumping. Mr. Shea recommended approval of this permit. Councilman Davis noted there was one item added this year that was not included in the Memo last year regarding the wetland. Mr. Shea said they are looking at that to see if there are any wetlands at this location. He said the previous dumping permit dealt with wetlands on Route 144

so when they are reviewing the site, they are looking at it. He said this is protecting the Town.

The motion was made by Mrs. Davis and seconded by Mr. Marcelle to approval the renewal of a dumping permit for clean fill from Carl and Margaret Barkman for premises 789 Route 9W, Glenmont as recommended by Kevin Shea, Building Inspector. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Plummer.

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Supervisor Fuller thanked Building Inspector Kevin Shea.

The next item was a recommendation from Commissioner of Public Works, Bruce Secor, to update the long-range water supply study. Supervisor Fuller asked Mr .Secor to give information regarding this item. Mr. Secor said the Board received paperwork and he said the proposal to do this was included in the budget papers done last year noting this is implementing the budget requests. He said there was a preliminary scope of services developed. They looked at a number of different firms, selected from them and interviewed the firms. He said from that they are making a recommendation that O'Brien and Gere be selected to do the study.

Mr. Secor said basically the study is going to look at the short-range and long-range water supply needs and how to meet the needs. He said for the purposes of the study, they are assuming that the Clapper Road water purification plant is going to come up on line and take care of the industrial side. He said the study will look at the long-term needs of the system including that as a potential. In the scope of services and the information provided by O'Brien and Gere, there are a series of steps outlined, as far as, the study and what will be studied and how this will be accomplished. He said they also have submitted qualifications for all of the people who will work on this. He further noted they felt most comfortable with the group of professionals put forward by O'Brien and Gere to do the study. He said they have provided an estimated cost of about \$89,400 for the overall cost of providing these services which are outlined in the scope of services.

Mr. Secor said he would be happy to answer any questions. Supervisor Fuller noted a representative, Mike Kolceski, was in attendance from O'Brien and Gere.

Councilman Davis asked how long this will take. Mr. Secor said the time frame is to finish the study before the end of the year and get back to the Town Board with a specific recommendation and then depending on what recommendations come out of this, to then move forward on implementation of those recommendations. Mr. Secor said there is a lot of research to be done, noting the last time this was done in 1990-91 there was a lot more exploration, drilling, pilot plant testing which was a lot more expensive. He said now this is more a research of options that some of which have been looked at before. He said it is a different kind of study and that's why it is considerably cheaper than last time because this is an update and there are different needs.

Councilman Davis said she noticed the Watervliet Reservoir was included in this. Mr. Secor said that was correct. He said it includes purchasing from the City, Watervliet Reservoir and a number of options are outlined, all which will be looked at.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to authorize the Supervisor to sign the contract to proceed with an updating of the long-range water supply study. The motion was passed by the following vote:

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

The next item was a request from Michael Cirillo, Engineering Services Administrator, to release bonding in the amount of \$8,727.28 plus interest to date of release, for the Wildwood Subdivision. Supervisor Fuller noted the work has been completed.

The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to approve the release of bonding in the amount of \$8,727.28 plus interest to date of release for the Wildwood Subdivision as requested by Brookview Court Inc. and requested by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

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

The next item was a request from Engineering Services Administrator, Michael Cirillo, for approval of acceptance of deed for 25 Westphal Drive, Delmar.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the acceptance of a deed for drainage easement purposes at 25 Westphal Drive, Delmar from Mr. and Mrs. Michael Giacone, Selkirk, NY as requested by Engineering Services Administrator, Michael Cirillo. The motion was passed by the following vote:

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

The following item was a request from Michael Cirillo, Engineering Services Administrator, for approval of a drainage easement, lot 45 Corrit Drive.

The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to approve the acceptance of a deed for a drainage easement 20 feet in width along the easterly line of lot 45 Corrit Drive, Delmar, from Traditional Builders Ltd., Schenectady, NY as requested by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

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

The next item was a request from Nan Lanahan, Administrator, Parks and Recreation Department, authorizing the Town of Bethlehem to apply for a grant for the Henry Hudson Park. Supervisor Fuller asked Administrator Lanahan to give information on this request.

Mrs. Lanahan said she apologized for the revised Resolution, however, the change was necessary because it is a different State agency that is being applied to for a similar grant. She said it will be going to the Department of State rather than the Office of Parks and Recreation. She said she included some pictures taken by the County of the area down at the Henry Hudson Park that she thinks show the damage and problems that are being experienced. She said the request was for approval to move forward and apply for the grant. She said it will allow for a professional study of the work that should be done and see if it is something that

can be done through other grants or whatever other sources can be found. She said this is the first step in a long-term process.

Supervisor Fuller noted this is a grant request for \$10,000. Mrs. Lanahan said this is a \$10,000 grant which would be matched by the Town. The Supervisor asked if that can be matched with in-kind services. Mrs. Lanahan said it could be. Mrs. Lanahan said the time spent by both herself and the County people that have been helping her can be counted as well. She said they are hoping to get a professional engineering service to do a complete study of the area.

Councilman Lenhardt said he liked some of the concepts mentioned in the grant proposal. Mrs. Lanahan noted the growth in fishing at the park has been unbelievable. She said a lot of it has to do with the boat launch but during the running time of the fish, people are lined up all the way down. Councilman Lenhardt said it was a great place.

Councilman Davis noted we are not alone because there are so many places along the river, many of the boat clubs as an example, have had their bulk heads and rip/rap and everything erode away over the years. She said this is not unusual, this is just part of living on a river. Mrs. Lanahan said she has a file that goes back to the late 80s of pictures and damage and correspondence and now 14 years later we still need to do something, at least get a start.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to authorize the Supervisor to sign an application for a grant pertaining to the Henry Hudson Park in Cedar Hill, Selkirk as requested by Nan Lanahan, Administrator, Parks and Recreation Department. The motion was passed by the following vote:

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

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Supervisor Fuller thanked Mrs. Lanahan, Administrator, Parks and Recreation Department.

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

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the appointment of seasonal personnel as listed in the Memorandum dated June 11, 2002 from Nan Lanahan, Administrator, Parks and Recreation Department, at the titles and salaries listed. The motion was passed by the following vote:

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

The next item was to approve the Town Board minutes of May 22, 2002.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the Town Board minutes of May 22, 2002 as submitted. The motion was passed by the following vote:

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

Supervisor Fuller asked if anyone wished to address the Board. Councilman Marcelle asked to note that he apologized for being late but the good news was that the Mets beat the Devilrays in a pitchers duel.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to adjourn the regular Town Board meeting at 8:03 p.m. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Plummer.

Town Clerk