

TOWN BOARD
JUNE 26, 2002

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

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

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

The Supervisor first called Assistant Building Inspector, Anthony Morrell, to come forward and presented him with a Proclamation on his retirement. Mr. Morrell was with the Town for 19 years and his last day is Friday, June 28, 2002. She thanked him for his meritorious service to the Town and the Building Department.

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The first item on the agenda was a request from Building Inspector, Kevin Shea, for consideration of deck addition to 8 Keats Common, Slingerlands, PRD Terramere. Supervisor Fuller explained this is a PRD in Terramere. Mr. Shea wished Tony good fortune on his retirement. He said he received a request from Jerry Michelson to construct an attached wood deck at the above reference address. He said this residence falls within a Planned Residential District. He said the deck is 11 foot 2 inches by 30 feet and would be attached to the rear of the house as shown on the attached survey. He said this would encroach on the setback line by 6 feet and this would require Town Board approval for relief. He asked the Board for this consideration.

The motion was made by Mr. Marcelle and seconded by Mr. Plummer to approve the request for permission to construct an addition at 8 Keats Common, Slingerlands, PRD Terramere as recommended by Building Inspector, Kevin Shea. The motion was passed by the following vote:

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

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Supervisor Fuller thanked Mr. Michelson and Mr. Shea.

The next item was a discussion regarding Cherry and Elm Avenues truck traffic. A lengthy discussion followed regarding the traffic on these streets and Albany County representatives were in attendance to obtain information. A State Department of Transportation representative was not available to attend the meeting. Supervisor Fuller noted they have been working on a truck study and noted truck traffic has been discussed previously indicating that we are having trucks all over the Town. She said this is something much bigger than Cherry and Elm and Route 396. She said this needs to be looked at as a Town issue, probably a State and County issue as well.

Supervisor Fuller said they have received the petition and letter from the residents. Concern was expressed with regard to the safety of everyone in the area and the proposed construction plan increases the concerns. Questions were raised

as to the origin of the truck traffic. The Board was thanked for lowering the speed limit in this area. Time frame of truck traffic and noise was also discussed.

The Supervisor noted that following a meeting with DOT, the officials asked the trucking industry leaders if they would consider encouraging their drivers, asking if there were volunteers in the trucking industry, to go a different route and not to be on these roads within the Town. She said so far it has not changed anything. She said the State is doing a survey of the truckers and who they are, where they are coming from and going. She said the answer is that a lot of them are independent truck drivers. She said she knows none of that is very important in dealing with this situation. She said it is not a problem that is being ignored. She said every street in Town has issues with trucks.

Supervisor Fuller said there are restrictions that can be placed on the highways. She asked where the trucks should go. Mention was made that the Bypass was designed to take the trucks off of the local highways. The Supervisor agreed.

Questions were raised about whether the Board can do something and if they can, why don't they. Supervisor Fuller said it is a tough call. She said it is called business and commerce. She said she does not want to exchange that for the quality of life but there has to be a middle ground and that is what is so difficult. She said a weight restriction might help but she does not know. She said a total ban on truck traffic is something she is not in favor of. She wishes members of the trucking industry had attended the meeting. She said that would help because they are the people who can change the situation. She feels this should be a joint solution.

Further questions were raised regarding restricting the time of the truck traffic. Supervisor Fuller said it may cut down some of it if there is enough inconvenience. Comment was made that the trucks are not going to disappear but will simply go over some other street.

Town Attorney Alessi asked for one person to give information regarding where the trucks originate from, what path they currently take as they go by this area and what was the end destination and then a suggestion of where the trucks be rerouted from starting with their point of origination. One gentleman noted they probably originate from Conrail yards and continue over Elm, over Cherry over to Route 85 and then he assumed they hook-up with exit 24 or go up the Northway. He then suggested that they go right down 32 and pick-up exit 23 or they go 787 to go eastbound on I-90. He said they want to save 20 cents, they could go down 787 and pick-up I-90 westbound and hit it there. He said they are saving 1 exit at the expense of the people.

Town Attorney Alessi then asked if it is as bad in the opposite direction. The gentleman said it is the same both ways. Mr. Alessi also asked if how much of this traffic is Swift. The gentleman said Swift is the largest hauler, noting this company is by far the greatest number. There is a lot of traffic and other truck companies are also present.

Issue was taken that there is no enforcement done regarding these trucks and their being overweight. Supervisor Fuller said this can be looked at and the Police Department can address this issue.

Supervisor Fuller asked Mr. Sagendorph, Highway Superintendent, if he would give some information regarding weight restrictions, size of trucks or some thing that the Town can do. Mr. Sagendorph said he did not want to get into the specifics because he does not have all the accurate details with him. He said he needs to throw out some ideas that will have to be wrestled with if there is some kind of restriction done on Elm and Cherry Avenues. He said it is easy to restrict them coming northbound, however, southbound is more difficult.

Supervisor Fuller said she wanted to have an idea of what truck weighs what. A gentleman said it is 48,000 lbs. for a tractor trailer. Mention was made that there is a 1 ton limit. Mr. Sagendorph said that would be like a 1 ton dump truck, a little larger than a pickup truck. A resident said the lighter the truck is the more it jumps and this affects the foundations of the houses in the area.

Question was raised as to whether the issue is the reconstruction of the road or the increase in trucks that may occur. The issue mainly stated by the residents in attendance was the trucks. Question was also brought up that a year ago Albany County said the Town had no role in this process. Supervisor Fuller said that was correct, indicating the Town had no right to limit the truck traffic on a County road. The resident said he wanted that to be specific so the Town Board does not have a problem. He thanked the Board for having the meeting.

A resident who owns a house that is rented, noted the speed limit was lowered and she was thankful. She said the speed trailer was there and no one went slower than 45 miles an hour. She said if there was a police officer there, we could probably get some money. She said many towns have truck routes and she thinks trucks should be able to go to businesses. She said it is the cut through traffic that is the problem.

Supervisor Fuller asked the County representatives to give their input. Mr. Franchini said they came to listen to the comments and has kept notes. He said they do not feel they are going to make the decision on their own. He said they feel they have to work with the Town and the State. He further said they do not have an alternate county route. Mr. Franchini said the other issue is the truck study, noting they have worked with the State and what the study will do. He said the study will be done shortly. He said it is irresponsible and premature to do anything without looking at the study.

One suggestion made to the Supervisor was to ban all tractor trailer traffic.

Discussion followed regarding what position the County would take in regard to the Town wishing no tractor trailers or trucks permitted. The Commissioner said he would not oppose this ban. A resident asked if the County was going to support the Town if they decide to ban truck traffic on this corridor. The Commissioner said he does not oppose a ban. Clarification of the question was attempted in regard to this ban.

Town Attorney Alessi asked the Commissioner about a letter dated June 14th from County Executive Breslin and the fact that the County could not practically restrict truck traffic on its own, asking him to explain by the qualifier "practically". He also asked if the County with all practicalities aside, ban truck traffic on these avenues. The Commissioner said they would have no methodology for enforcement. Mr. Alessi asked if they could ban them as a County. The Commissioner said they could impose a ban but they have no methodology for enforcement. Mr. Alessi said he understood that about enforcement. He asked if the County could ban truck traffic on Elm and Cherry Avenues. The Commissioner said he would like to check the law. Mr. Alessi asked that he check and get back to him. The Commissioner said again that they have to work with the Town and the State for the overall flow of truck traffic through all of the town.

Mr. Alessi asked if Route 85 was a State road and the Commissioner said it was. He asked if there is any information that the Town has the ability at all to ban traffic on a State road. The Commissioner said they do not. Mr. Alessi said he agrees that the Town, legally, has no ability to ban traffic. He said it does not mean the Town cannot influence the State or that the County cannot influence the State. Finally, he said he was asking questions to have a solution cap on as to these issues and interested in how one might go about alleviating the traffic issue from the opposite side of coming in Route 85 to Town. He said he lauded Mr. Sagendorph for trying to give people information, noting he knows it is not always easy. Mr. Alessi asked if there is any solution to that part of the problem if the Town has no right to ban traffic on a State thoroughfare. The Commissioner said some of the

truck study reports are going to consider alternate routes and they will be able to see where the projected traffic would go, where to recommend it go, what would the affect be on other areas of Town.

Mr. Alessi asked if the purpose of the study is to identify where the trucks are going and where they are coming from and then to look at possible solutions and then to look at the effect of possible solutions or is there some other purpose to the study. The Commissioner said he hopes that is one of the main purposes of the study because that is what he is hoping to see in there. The study is expected to be published before Labor Day. Supervisor Fuller noted they will be able to come to the second Board meeting in August.

Question was raised as to whether traffic calming was a major factor in the reconstruction of Cherry and Elm Avenues and if it is, remind the Board where the traffic calming has been done. The Commissioner said the pictures on the back table indicate the proposed lane width on Kenwood is the same exact lane width as proposed for Cherry and Elm. He said they are not narrower or wider. Mention was made that the narrowing is being done with the stripping to make it appear as though it is narrower.

Question was also raised in regard to planting of trees to calm the traffic also and whether there will be plantings. The Commissioner said there will be.

Supervisor Fuller asked what the construction date was. The Commissioner said the letting would be this winter and construction next spring, 2003, with the majority of the construction completed by the fall and the following spring of 2004 any additional finish work for completion of the project.

Question was raised if the Board decides to vote will the residents be notified. Supervisor Fuller said they would be notified and a public hearing could be scheduled. She said she did not think anyone was ready to vote on any proposal. In the interim it was suggested that enhanced enforcement should be done immediately. Supervisor Fuller agreed and said she would notify the Chief of Police first thing in the morning. Mention was also made that the tractor trailer companies should be contacted to notify them of the proposed ban or restrictions of truck traffic. This particular discussion was held before with regard to the truck traffic on Route 396, with a suggestion to repeat this because it could not hurt. The third suggestion was to restrict the tractor trailers on these roads.

Residents thanked the Board for their time. Discussions have been had by all the Board Members and one Board member found it offensive that they are accused of sitting on this situation. No one is waiting for a tragedy to happen and appropriate action will be taken. Mention was made that it will be the best thing to do and the best action to take. There is a concern for the quality of life and safety, however, it does not have anything to do with the assessment of who lives where.

A resident asked that a look be taken at the signal for the walkers at the corner of Cherry and Elm and Delaware. The button is pushed and nothing happens. The button at CVS, Elsmere and Delaware Avenues, the lights turn and you can walk.

Supervisor Fuller thanked everyone for attending this meeting. Mention was made that everyone recognizes that something has to change. In the interim, recommendation will be made to the Chief to slow the truck traffic down and have aggressive enforcement, including the no parking signs, especially in the middle of the night.

Supervisor Fuller noted the Town Board meets twice a month with the exception of July when there will only be one meeting. She said she has asked the State to be in attendance for the second meeting in August for a presentation regarding the study. She said the first meeting in September at 7:30 p.m. this item will be on the agenda for discussion of what the proposed local law will be.

Question was raised about the study being available for review. Town Attorney Alessi noted that under the Freedom of Information law, the document is available once it is completed. He also noted if possible copies will be available in the Library and at the Town Clerks office.

An owner of a trucking company spoke regarding speeding and noted that when the police were called in, it was the residents who got tickets, not the trucks. He said trucks look like they are going faster, however, he does realize tailgating is a problem. He said he does not like it himself. He also mentioned that coming after the trucks is harassment and it should be the cars and trucks being pulled over. He said he thinks the trailer for speed verification is a perfect thing. Supervisor Fuller noted they are not out to harass anyone.

Mention was made about all the hard work Brenda Askew has done on this issue. She has been a real advocate on this issue. Mrs. Askew presented a petition that had 150 signatures on it. She thought the previous petition had 60 signatures on it.

Question was raised about the issue of the sewer lines on Elm Avenue and whether this will be looked at when the reconstruction is done. A resident said it seems there is a problem now and someone else has noted they have had problems. She said it would be a shame to put a new road in and then find out the sewers are crumbling. Commissioner of Public Works, Bruce Secor, said they are aware of the problem and they have televised almost all of Cherry Avenue. He said there was a street collapse near Orchard Street that was repaired about 5 or 6 years ago. He said that was due to a construction defect when the sewers were originally put in. He said there is a severe problem with the sewer laterals which are clay tile and did not have good joints when they were built and 50 years later they are not any better. He said they are looking at some technology and addressed this with the Board. He said they have talked about both Cherry Avenue and Kenwood Avenue and Delaware Avenue which are roads where the sewer run out and there is a lot of truck traffic and there are problems with the laterals. He said they are looking at some technology to try to do this as a trenchless repair for the pipes that are not collapsed, noting they are out of alignment or have bad root problems. He said there are methods to go in and realign those with either a cured in place liner or pushing a new pipe through. He said the Town's responsibility is for the sewer main itself right now. He said they have done all of Kenwood Avenue with 2 sinks to dig up and repair. He said root control has been done and root control has been done on Cherry from Delaware going up as far as the sewer goes up. He said they have done all of that area.

Mr. Secor said unfortunately right now the sewer laterals are the homeowners responsibility and one of the things they are working with the County and the State on is that they feel it is a foreseeable impact of construction, especially on a road construction project or a rip-out that just the vibration of the construction equipment and the fact that they are digging down to remove all the pavement and everything that there is some potential that these laterals which may be very fragile will become damaged. He said they have raised the point with the County and the State and it makes no sense to do a road reconstruction and then dig up every 60 feet over the next 10 years to fix all the broken laterals. He said they are trying to address that program. He said the decision from the State at this time is that the State considers that a betterment and that if the laterals were done, they would have to be paid for by the Town in addition to whatever is being spent on the road reconstruction. He said there is a similar problem with the water main. He said they are going to replace the entire water main on Cherry Avenue, noting that is the Town's expense. He said it is a very old water main and needs to be replaced and they are budgeting for that.

Mr. Secor said it is a problem but they hope to address that and they are working on it. He said at least from the sewer main to the property line. He said they cannot come on private property but they are trying to take care of the portion

out near the pavement. Mr. Secor noted the County will be raising some of the manholes that are low now and the trucks thump through those.

Supervisor Fuller asked for a contact person that might be able to get information distributed or to let the residents know when the study is received. Mrs. Brenda Askew and her husband offered to be the contact person. Supervisor Fuller thanked everyone and noted they do care.

The next item was a request from Highway Superintendent, Gregg Sagendorph, pertaining to traffic and signage issues at various locations in the Town of Bethlehem. Consider repeal yield sign and replace with stop sign at intersection of Oldox and Paxwood Roads, Delmar; Add stop signs at intersections of Tierney Drive, Village Drive and Longwood Drive, Delmar; and add stop signs on Hague Boulevard, Guilder Lane, Windmill Drive and Holland Court in the Dowerskill Development, Glenmont. Supervisor Fuller said this is to set public hearings for the meetings on July 24.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to set a public hearing for 7:30 p.m. on July 24, 2002 to consider a proposed local law amending the Code of the Town of Bethlehem, Vehicle and Traffic, as follows:

REPEAL: Yield signs on Oldox Road at intersection of Paxwood Road, Delmar
And
AMEND VEHICLE AND TRAFFIC ARTICLE VI, Section 119-10, Schedule VII,
Stop Intersections as follows:

ADD: Stop signs on Oldox Road at its intersection with Paxwood Road; and
Stop signs on Paxwood Road at its intersection with Oldox Road.

The motion was passed by the following vote:

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

The motion was made by Mr. Plummer and seconded by Mrs. Davis to set a public hearing for 7:45 p.m. to consider a proposed local law amending the Code of the Town of Bethlehem, Vehicle and Traffic, to add a Stop sign on Village Drive at its intersection with Longwood Drive; and stop signs on Tierney Drive at its intersection with Village Drive. The motion was passed by the following vote:

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

The motion was made by Mr. Plummer and seconded by Mrs. Davis to set a public hearing for 8:00 p.m. to consider a proposed local law amending the Code of the Town of Bethlehem, Vehicle and Traffic, to add stop signs on Hague Boulevard at its intersection with Guilder Lane; stop sign on Guilder Lane at its intersection with Hague Boulevard; stop sign on Windmill Drive (east) at its intersection with Hague Boulevard; and stop sign on Holland Court at its intersection with Bernard Place. The motion was passed by the following vote:

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

Highway Superintendent, Gregg Sagendorph, gave a little history regarding these proposals. He said he passed out information concerning 5 traffic issues that have been before the Town Board for quite some time. He said he would be remiss if he did not stand up and know that at least 2 of the individuals involved in those petitions and in the requests are in attendance. He said they have sat very patiently through the previous discussion. If there are any questions, Mark Sargent is also present from Creighton Manning Engineering, who the Town retained as the engineering firm, to look into these different proposals. He said this is their recommendation. He asked the Board if the Dowerskill neighborhood representative or the Oldox Road neighborhood representative could give information if they wished. He said they realize they have to come back to the public hearing.

Supervisor Fuller thanked Mr. Fessinger and Mr. Hanafin for their attendance and patience. She asked them if they agreed with the recommendations. Mr. Fessinger said they had a board meeting and they do agree and support the proposal. He said it is a good start. Mr. Hanafin thanked the Board for the consideration of the proposal. He said he thinks it is very necessary and thanked the Board for their service. He said this shows their dedication and he appreciates that.

Councilman Plummer asked if there were other reviews being done by Creighton Manning Engineering or are the requests caught up. Mr. Sagendorph said we are never caught up. He said there are requests but these have been for several months or last spring that these were in. He said they are trying to play catch up, however, the requests come in 2 or 3 a week to the Supervisor's office and his office. He said Creighton Manning Engineering will probably need to be retained to inspect and review some of these requests. He thinks that there will be some discussion about doing a town-wide traffic signage study and to see where the Code is in comparison to the inventory of the signs that are out there and recommendations of signage of intersections. He said the insurance carrier asked 3 or 4 years ago that all 3 and 4 way intersections be signed to designate right-of-way. He said this has been done sporadically since that request came through. He said there were over 350 to 400 intersections that needed to be addressed.

Mr. Sagendorph said he thinks there is a need to get a traffic engineering firm to come in and do a comprehensive study.

The next item was to adopt a resolution setting polling locations for the conduct of Elections in the year 2002.

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

RESOLVED, that in accordance with Election Law, Article 4, Subdivision 4-104, the Town Board of the Town of Bethlehem, hereby designates the following named locations as polling places for any election to be held in the Town of Bethlehem effective May 1, 2002 through April 30, 2003:

<u>District</u>	<u>Polling Location</u>
1	North Bethlehem Fire House 589 Russell Road, No. Bethlehem
2	Beverwyck 40 Autumn Dr., No. Bethlehem
3	Slingerlands Fire Dept. New Scotland Rd., Slingerlands
4	First United Methodist Church 428 Kenwood Ave., Delmar
5	Elsmere Grade School 247 Delaware Ave., Elsmere

6	Bethlehem Town Hall 445 Delaware Ave., Delmar
7	Slingerlands Fire Dept. New Scotland Rd., Slingerlands
8	Bethlehem Town Hall 445 Delaware Ave., Delmar
9	Bethlehem Library 451 Delaware Ave., Delmar
10	First United Methodist Church 428 Kenwood Avenue, Delmar
11	Educational Services 90 Adams Pl., Delmar
12	Elsmere Fire Department 14 West Poplar Dr., Elsmere
<u>District</u>	<u>Polling Location</u>
13	Elsmere Grade School 247 Delaware Ave., Delmar
14	Parks & Recreation Building 261 Elm Ave., Delmar
15	Bethlehem Town Hall 445 Delaware Ave., Delmar
16	Bethlehem Lutheran Church 85 Elm Ave., Delmar
17	Delmar Fire Dept. Delaware Ave., Delmar
18	Hamagrael School McGuffy Lane, Delmar
19	Bethlehem Central Middle School 332 Kenwood Ave., Delmar
20	St. Stephens Church Elsmere Ave., Delmar
21	Glenmont Grade School Route 9W, Glenmont
22	Selkirk Fire Dept. #2 Glenmont Rd., Glenmont
23	Delmar Fire District Annex Feura Bush Rd., Delmar
24	Selkirk Fire Dept. #2 Glenmont Rd., Glenmont
25	Glenmont Grade School Route 9W, Glenmont
26	Bethlehem Vol. Ambulance Service 1121 Route 9W, Selkirk
27	Parks & Recreation Building 261 Elm Ave., Delmar
28	Bethlehem Historical Museum 1003 Route 144, Selkirk
29	Selkirk Fire Dept. #3 Bridge St., So. Bethlehem
30	Selkirk Fire Dept. #1 Maple Ave., Selkirk

The resolution was adopted by the following vote:

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

Noes: None.

Absent: None.

The following item was to accept the resignation due to retirement from Assistant Building Inspector, Anthony Morrell.

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

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to accept with regret the resignation due to retirement of Anthony Morrell, Delmar, New York as Assistant Building Inspector. The motion was passed by the following vote:

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

The next item was a request from Engineering Services Administrator, Michael Cirillo, for approval of release of bond for the Medwin Subdivision No. 2.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the release of bonding for the Medwin Subdivision, No. 2, as requested by David and Doris Medwin and recommended by Engineering Services Administrator, Michael Cirillo. The motion was passed by the following vote:

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

The following item was a request from Commissioner of Public Works, Bruce Secor, for approval of entering into a contract with NYSERDA and authorization of the Supervisor to sign grant.

Councilman Plummer asked about the further items regarding Capital Reserve Funds and inquired if the NYSERDA grant was within that. Mr. Secor said it was. He said the Town has to pay for the entire work upfront and then get reimbursed. He said the total cost is about \$80,000 and about \$50,000 of it is reimbursable. He said the first half is about 50 percent of the eligible cost or about \$25,000 when the study will be done. He said then they can apply for the second half when they do the implementation of what has been recommended. He said eventually, the Town should get back 100 percent of the eligible costs but the Town has to fund it upfront. He said that is why he is asking for the authorization of the \$80,000. Councilman Plummer asked what the 100 percent of the eligible cost was. Mr. Secor said it is about \$50,000 of the eligible costs. Mr. Secor said this was an excellent program.

Supervisor Fuller thanked Mr. Mathusa for his involvement in this process.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve entering into a contract with NYSERDA and authorized the Supervisor to sign the grant. The motion was passed by the following vote:

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

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

The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to approve the appointment of seasonal personnel as requested by Parks and Recreation Department, Administrator, Nan Lanahan, at the titles and rates of pay noted in her Memorandum dated June 26, 2002. The motion was passed by the following vote:

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

Noes: None.
Absent: None.

The next item was a request from Bruce Secor, Commissioner of Public Works, to adopt a resolution pertaining to expenditure of Sewer District Capital Reserve Funds subject to permissive referendum.

The following resolution was presented for adoption:

RESOLUTION AND PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem in the County of Albany, State of New York has on the 26th day of June 2002, duly adopted, subject to a permissive referendum, a resolution as follows:

WHEREAS, the Town Board of the Town of Bethlehem has determined that it is necessary to fund the implementation of an Engineering study to identify energy saving improvements for the wastes water collection system through participation in a program with the New York State Energy Research and Development Authority and major maintenance projects to repair and replace deteriorated pipelines in several areas of the waste water collection system, and

WHEREAS, it is estimated that the costs of said work will not exceed \$400,000; and

WHEREAS, in recognition of these needs, funds for such purpose are in the Sewer District Fund Capital Reserve; and,

NOW, THEREFORE, BE IT RESOLVED that it is in the public interest to complete these projects; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the expenditure of the reserve moneys from the Sewer District Capital reserve fund up to a maximum amount of \$400,000; and,

BE IT FURTHER RESOLVED, that the Town Comptroller is authorized to expend from said Capital Reserve fund up to \$400,000; and

This resolution shall be subject to a permissive referendum as permitted by law.

The motion to adopt the resolution was made by Mrs. Davis, was seconded by Mr. Lenhardt and duly adopted by the following vote:

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

Councilman Marcelle asked if this was subject to permissive referendum because of State Law, Municipal Home Rule, or is it something in our regulations. Town Attorney Alessi noted it was State Law. Mr. Marcelle further asked if we had to publish a notice or anything. Town Attorney Alessi said we do publish the resolution. Mr. Marcelle was not sure that that was covered. Supervisor Fuller noted the resolution of public notice was attached and this is published.

The next item was a request from Commissioner of Public Works, Bruce Secor, to adopt resolution pertaining to expenditure of Water District Capital Reserve Funds subject to permissive referendum.

RESOLUTION AND PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem in the County of Albany, State of New York has on the 26th day of June 2002, duly adopted, subject to a permissive referendum, a resolution as follows:

WHEREAS, the Town Board of the Town of Bethlehem has determined that it is necessary to fund the implementation of a project required for regulatory

compliance of the Chemical Bulk Storage Program for containment in loading/unloading areas and a project to replace screens in the clarifier sections of water treatment units at the Clapper Road plant, and

WHEREAS, it is estimated that the costs of said work will not exceed \$110,000; and

WHEREAS, in recognition of these needs, funds for such purpose are in the Water District Fund Capital Reserve; and

NOW, THEREFORE, BE IT RESOLVED that it is in the public interest to complete these projects; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the expenditure of the reserve moneys from Water District Capital reserve fund up to a maximum amount of \$110,000 and,

BE IT FURTHER RESOLVED, that the Town Comptroller is authorized to expend from said Capital Reserve fund up to \$110,000; and

This resolution shall be subject to a permissive referendum, as permitted by law.

The motion to adopt the resolution was made by Mrs. Davis, was seconded by Mr. Lenhardt and duly adopted by the following vote:

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

Noes: None.

Absent: None.

The following item was to acknowledge receipt of the Conditional Approval of Final Plat for the Proposed Subdivision of lands of Steven B. and Cathy G. Barber, Werner Ave., Delmar.

The next item was to approve the Town Board minutes of June 11, 2002.

The motion was made by Mr. Marcelle and seconded by Mrs. Davis to approve the Town Board minutes of June 11, 2002 as submitted. The motion was passed by the following vote:

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

Noes: None.

Abstain: Mr. Plummer.

Supervisor Fuller said there was an additional item on the agenda and this is the Proposed Sanitary Sewer for Beaver Dam Road in Selkirk. Mr. Secor explained this was a late item and he apologized to the Board. He said a grant was received last year for \$50,000 to help fund sewers on Beaver Dam Road and it was to go by the Samaritan Shelters. He said they have been working and Mr. Effron has been helping get the right-of-ways. He said they have all the easements except one and they are trying to get this in order to move ahead with the project. He said it has to be completed this year so the grant is not lost. He said this came up at the last minute and noted this one just has not been executed. He said they are going to have to go forward and take it by eminent domain if necessary. He said everyone seems to be in favor of this project.

Supervisor Fuller asked if this was authorization for her to sign the resolution. Mr. Secor noted it was.

Councilman Plummer asked for an explanation of what this was. Mr. Secor said it is an underground easement across the front of someone's home parallel to Beaver Dam Road to put sewer in. He said it benefits them and noted they are getting a sewer basically for free. He said they cannot get them to sign the easement. Councilman Davis said this is a person who lives out-of-town. Mr. Secor said they live in Florida now and they have shipped the paperwork down and

they have not received it back.

Councilman Plummer further asked if it just disrupts their property temporarily while the pipe is put in. Mr. Secor said it is a temporary deal and they get a free sewer out of it. Councilman Davis said the other people who live on Beaver Dam Road will be very, very happy, noting they have been waiting for this. Mr. Secor said there is some desperate need along this road.

The following resolution was presented for adoption:

Councilman Davis presented the following Resolution and moved its adoption:

WHEREAS, the residents of Beaver Dam Road between Trinity Place and the New York State Thruway have requested public sanitary sewers due to failed private septic systems in the area, and

WHEREAS, the proposed improvement will be an extension of an existing sanitary sewer in Trinity Place and will serve the Samaritan Shelter as well as eight (8) additional property owners, and

WHEREAS, the Town of Bethlehem has applied for and has received approval for a \$50,000.000 grant under the aid to localities program of the State of New York, and

WHEREAS, the Town of Bethlehem Engineering Division has designed an extension of the municipal sanitary sewer system to serve the properties lying between Trinity Place and the New York State Thruway, and

WHEREAS, the aforesaid project has obtained the approval of the Albany County Health Department, and

WHEREAS, in order to progress the aforesaid project to completion the approval of the Town Board of the Town of Bethlehem is required (1) for the project and (2) to approve the application to the appropriate State department(s) to obtain final approval for the aforesaid project, and

WHEREAS, it is the policy of the Town of Bethlehem to negotiate the conveyance of interests in real property whenever and wherever possible, recognizing that in some instance it may be necessary to resort to the Town's right to exercise its powers of eminent domain to acquire the necessary interests in real property; and

WHEREAS, all necessary interests in real property have been acquired except for interest in real property owned by Robert W. Schermerhorn and Margaret M. Schermerhorn, which interests in real property the respective owners have heretofore refused to convey to the Town of Bethlehem;

NOW, THEREFORE, BE IT
RESOLVED,

1. That the Town Board of the Town of Bethlehem does hereby approve the extension of the municipal sanitary sewer in Beaver Dam Road in the Town of Bethlehem between Trinity Place and the New York State Thruway;
2. That the Supervisor be, and she is hereby, authorized to sign the application(s) to the appropriate State Department(s) to obtain final approval for the aforesaid project;
3. That the Town Board does hereby determine that it is necessary to acquire, pursuant to the provisions of the Eminent Domain Procedure Law, those interests in real property which are required to improve and extend the existing sanitary sewer system along Beaver Dam Road between Trinity Place and the New York State Thruway, which have been conveyed to the Town of Bethlehem;
4. That the acquisition of these interests in real property is for the public use, benefit and purpose and project of improving and extending the sanitary sewer system serving Beaver Dam Road between Trinity Place and the New York State Thruway in the Town of Bethlehem;
5. That the design and location selected by the Town's Department of Public Works is the most economical and efficient to accomplish the aforesaid purpose;
6. That the Town of Bethlehem is exempt from compliance with the provisions of Article 2, Eminent Domain Procedure Law because it is the opinion of the Town Board of the Town of Bethlehem and is hereby so found by said Board, that the

acquisition of the necessary interests in real property from Robert W. Schermerhorn and Margaret M. Schermerhorn is de minimis in nature so that the public interest will not be prejudiced by the construction of the projection; and be it further

RESOLVED, that, for the purpose of carrying out these terminations, the Supervisor be, and she hereby is, authorized and directed to proceed in accordance with the applicable provisions of the Eminent Domain Procedure Law to acquire said interests in real property as is necessary for the improvement and extension of the existing sanitary sewer system serving Beaver Dam Road between Trinity Place and the New York State Thruway as has not already been acquired by negotiation and to enter into and execute such documents as may be necessary to carry out the purpose of this Resolution; and be it further

RESOLVED, that the Supervisor be, and she hereby is, empowered to employ the services of Special Counsel and a consultant fee appraiser for these purposes.

The resolution having been duly seconded by Councilman Lenhardt it was adopted by the following vote:

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

Supervisor Fuller asked if anyone wished to address the Board. Mrs. Capone said the Town has 28,000 people and said look at how many were in attendance. Councilman Plummer noted there are 31,000 people.

Supervisor Fuller asked for a motion to cancel the meeting of July 10, 2002 due to the lack of a quorum.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the cancellation of the July 10, 2002 Town Board meeting due to the lack of a quorum. The motion was passed by the following vote:

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

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to adjourn the regular Town Board meeting at 9:46 p.m. The motion was carried by the following vote:

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

Town Clerk