

TOWN BOARD
JUNE 28, 2006

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 5:30 p.m.

PRESENT: Theresa Egan, Supervisor
Daniel Plummer, Councilman
Tim Gordon, Councilman
Samuel Messina, Councilman
Kyle Kotary, Councilman
Kathleen A. Newkirk, Town Clerk
James T. Potter, Esq., Town Attorney

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Supervisor Egan welcomed everyone to a regular meeting of the Bethlehem Town Board and invited them to join in the pledge of allegiance. She said before public comment, she announced the passing of Thomas W. Scherer on June 26, 2006 in Cape Cod. She said Tom was a driver of the senior van in 1992-93, first Community Christmas Day Dinner Santa Claus, gave nearly 500 hours of volunteer hours and was a Member of the Board of Appeals from 1970 to 1993. She asked for a moment of silence in remembrance.

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The Supervisor also announced that Dan French the Town's intern from Rockefeller College has left the Town due to his taking a job as Deputy Commissioner of Elections in Dutchess County. She said anyone who has been involved with IMAC or anything here at Town Hall has met Dan and noted he will be missed terribly.

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The Supervisor asked if there was any public comment on agenda items. Ms. Susan Plank of Slingerlands said there is a proposal under the Town of Bethlehem's Department of Economic Development and Planning major overhaul. She said probably many people have gotten a copy of. In section B on page 6, titled Changes to the Zoning Map, Ms. Plank said there is a proposal to rezone a section of property on Orchard Road owned by William Cade currently under proposal for development as Phillipinkill Manor from residential RA to residential large lot. She said it appears as a map district amendment and is listed as the second item on the recommendations.

Ms. Plank made a request to the Board that all of the William Cade property/Phillipinkill Manor development of 125 acres plus or minus are zoned residential large lot for the following reasons: 1. It would help ensure the preservation of the entire stretch of the Phillipinkill in this area as a greenway and as a healthy source of tributary waters for the Hudson River Water Shed not just the section that flows among the 7 lots along Orchard Road. 2. It definitely would ease the severe impact currently anticipated on New York State DEC's 5 Rivers Environmental Education Center when such a large and topographically varied area contiguous to the Center's property is disturbed by development if the residential large lot zoning reduced the number of new home sites from the 107 that are currently proposed. 3. The lot size would be more consistent with Mr. Cade's existing house on the property which is shown to remain surrounded by a 12.181 acre parcel when Phillipinkill Manor is developed and this zoning would enhance the desirability and marketability of his individual property and the entire development. And 4. It would prevent the perception real or imagined by those in adjacent neighborhoods that this zoning change was made at the request of the current property owners on Orchard Road exclusively for the purpose of protecting their substantial real estate development. Ms. Plank thanked the Board. Supervisor Egan thanked Ms. Plank. Ms. Plank presented some copies of her statement to the Board.

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Supervisor Egan asked if there was any other comment on any agenda item. Mr. Robert Jasinski said there is discussion of skateboard park, asking if there is going to be someone speaking from the audience. Supervisor Egan said she will do a status report based on the last meeting. Mr. Jasinski said he was going to ask to reserve comment at the end. Supervisor Egan said absolutely. Mr. Jasinski said if it is just among the Board, if he does have any comments can he make them at the end. Supervisor Egan said it could be done at the end. She thanked Mr. Jasinski.

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Judge Frank Milano said until a week ago he was one of the 2 Bethlehem Town Justices and resigned a week ago to pursue an additional professional opportunity which unfortunately prevents me from also serving as Town Justice which if he could he would. He said he came to officially tender his resignation which is now a week old to the Board and to express a certain amount of thanks to a certain number of people. He said first he wanted to thank the voters for the Town of Bethlehem noting they entrusted him with a very important position 4 and ½ years ago. He said it was a position he never took with anything but the utmost seriousness and sense of purpose.

Judge Milano said it is a job that is the most rewarding position that he ever had and also the job with the greatest amount of responsibility. He said he had held some responsible jobs, noting he was Sam Messina's boss once so you know it was a responsible position indicating he wanted that on the record. He said it is a job that at 3 o'clock in the morning, ultimately when you are deciding whether to put somebody in jail or to order someone out of their house or order someone not to have any contact with their children for the next 60 days, one is left with one's own judgment and temperament and experience. He said one can intellectually know that but actually sit in the chair 3 o'clock in the morning is another experience all together. He said it is one he has enjoyed immensely and one that has been most professionally rewarding to him and he again thanked the voters for having given him the opportunity twice.

Judge Milano said he wanted to thank a few people who have assisted him. He said he noted that Justice Court Clerk, Barbara Hodom, is in the audience asking her to stand and be acknowledged. He said along with Tracey Roberts and Lisa Bopp and Karen Creed and Joe Sleurs – whom he knows unfortunately is also tendering his resignation tonight – he cannot imagine a Town or local village court that is more efficiently or better run. He said that has nothing at all to do with the justices. He said all he needed to do was show up and think and sign his name from time-to-time and he never had a care in the world. He said that was due to Barbara and her staff.

Judge Milano also wanted to thank Assistant District Attorney Renee Mergis, Assistant Public Defender Lou Neire, former Town Attorney Paul Dwyer, Chris Hanifan who is serving in Afghanistan or Iraq, Tom Noonan and Andrew Kirby. He said he wanted to thank Judge Dwyer also and Honorable Theresa Egan who are his judicial colleagues and offer a special note of thanks to Terri. When he was first elected, Judge Milano said, Terri the day after the election, they were collecting their respective signs around Town about 8 o'clock 2001 and she saw him and motioned him over outside the Slingerlands Post Office and she offers graciously to help him in any way she can to be prepared for the bench which she did. He said Ms. Egan was extremely helpful and he got to observe how a real life just walked and talked and acted and he was forever benefited which was a kindness that he never forgot.

Judge Milano said Ms. Egan was not without ulterior motive, however, in the same conversation she reminded me that as of the 2 of us, he was going to be the one who was going to be on duty New Year's Eve.

Judge Milano lastly in conclusion, he wanted to again thank the Board and the Town residents for having twice elected him and the pleasure was all his. Supervisor Egan thanked Judge Milano.

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Supervisor Egan asked if there were any other agenda item discussion. Mr. Michael Katzer said he is a resident of the Town for 30 years or so. He said he is an attorney and he submitted his name for consideration of appointment to the vacancy of Judge Milano. He noted he was not planning to speak but Judge Milano's comments prompted him to say some words. He said the Board Members should hear these comments, along with members of the community. He said he has been practicing a long time as an Assistant District Attorney and now in private practice and in the public sector as a criminal defense attorney.

Mr. Katzer said you could come into the Bethlehem Town Court, not just with Judge Milano but Judge Dwyer knowing that your client was going to receive a fair disposition. He said as an attorney that is all they can ask of any judge. He said it was comforting to know that. He also commented in addition to being fair, he thinks it's accurate to say that Judge Milano was firm and that was appreciated. Mr. Katzer said they wanted the best deal they could for their client but also wanted the values of our society and of our community protected and Judge Milano and Judge Dwyer do that. He said often times they work in anonymity but he thinks it is important for the public to know that.

Mr. Katzer echoed Judge Milano's comments about someone who he knows probably as long as his wife and that is Barbara Hodom. He noted he worked with her in many capacities and Judge Milano was right. When they as an attorney call the court on Tuesday afternoon with a legitimate reason that they cannot appear or be late, they are listened to and their reasons are accommodated and it is a very pleasant and courteous court, which is not always the case throughout the county. He said eh wished the Board to know that also.

Mr. Katzer said again he was not planning to speak but he was glad to have the opportunity to do so and will miss Judge Milano but wished him well in his new endeavors. He said he feels he will be seeing Barbara around every so often on Tuesdays. He thanked the Board. Supervisor Egan thanked Mr. Katzer.

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Supervisor Egan asked if there were any other items on agenda items. Mr. Albert Penk asked on the zoning changes with regard to parking commercial vehicles, the second item, what was going to deem a commercial vehicle. He asked if it was going to be the license plates. Director of Economic Development and Planning, George Leveille, said the definition. He said it is a vehicle that has commercial plates or is used for commercial purposes. Mr. Penk said an RV has commercial plates. Mr. Leveille said that would not be a commercial vehicle.

Mr. Penk asked in regard to his unique situation, in a residential area, he would only be able to park 1 vehicle. Mr. Leveille said you are allowed to park one without a form of permit. He said if you have more than 1 commercial vehicle, you need a special use permit. Mr. Penk thanked Mr. Leveille.

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Supervisor Egan asked if there were any further comments. Hearing none, she asked for a motion to close the public comment period.

The motion was made by Mr. Plummer and seconded by Mr. Messina to close the public comment period. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: None.

The first item was to approve the Town Board minutes of May 10 and May 24, 2006. Supervisor Egan said there was discussion regarding the length and detail of the minutes at a previous meeting. She said having consulted with Town Attorney, as well as, with the Town Clerk who keeps the minutes and recognizing a couple comments from the public, they are going to try and find that happy medium of not verbatim, it is not required and burdensome on the clerk, but recognizing

wanting to get more flavor with the substance of the comments being made and who they were. She said we are going to work towards that. As this is gone through, she explained, until that point is reached, certainly they welcome comments on that.

Councilman Plummer said the way they have been done from his experience has been fine. He noted he was not at the last meeting. He said the minutes approved at the last meeting were not reflective of what was said at the meeting. He said it is not necessary to do it verbatim but the intent should be to capture positions and statements were said. He said at long as that is accomplished, indicating it always has been, and noting he did not know what happened that night.

Councilman Messina said frankly in rereading the minutes, he thought more detail was necessary also. He said with the benefit of information provided by Board Counsel, there are 2 laws – the Town Law and the Open Meetings Law that provides really good guidance with respect to this. He said a complete and accurate reflection of what took place so it seems to him that if we capture decisions, capture the essence of what people are saying and they are identified, we can get good minutes out there without complete verbatim. He said he is comfortable with the direction this is going.

Councilman Kotary said he had some concern with the April 26th minutes and actually he thinks there are some areas in there, May 10th and May 24, that could use a little clarification or could go into a little more detail as to what was said in discussions. He said the ideal situation would be to have verbatim but he did not think that is realistic given the resources. He said he is fine as long as the minutes include in particular areas where there are Board discussions. He said the 10th and the 24th minutes fully capture the basic events, motions and votes, again a little more on the detail particularly in the questions and answer period. He said there is a lot of good information that comes from the presenters and the Board's questions. He said he thinks it is good for the Board to go back and the community to be able to read and help answer questions they have.

Supervisor Egan said so they will work toward that. The Board agreed that verbatim is not needed.

Mr. Albert Penk made a comment about the video tape not being available to the public at the Library. He said it gives the information about what is happening at the Board meeting. He said cable is not available to all the taxpayers in the Town so you are unable to get that from the Library. He said he did not know who stopped that or why it was stopped. He said he thought that should be implemented again so you can get the tape and make a copy or look at it at home being you do not have access to the meeting. Supervisor Egan said that is a Library decision. She said they could call and ask. She said it was not directed by the Town Board but she can check into that. Councilman Gordon said they are shown and after they are broadcast there is some period of time that they might want to reuse the tapes but there is no reason why they could not be made available again. He said it is up to the Library.

Supervisor Egan asked if Mr. Kotary had a problem with these minutes. Councilman Kotary said with these he is fine approving them. He said there were a couple of areas that he thought could stand to be in more detail. He said he did have a question about the April 26 minutes and whether more detail could be put into those. Supervisor Egan said maybe you could make a motion to amend but they are adopted. Town Attorney Potter said you could make a motion to amend but it would be a part of the minutes of the current meeting if the Town Clerk chose to amend she could go back and change it but it would be part of this record. Supervisor Egan said if he wished he could submit what the request were and put them on the next meeting to move to amend at that point with the changes there. Supervisor Egan asked Mr. Kotary to get the changes put together and submit to Town Clerk Newkirk so she can get them and put on agenda.

The motion was made by Mr. Plummer, seconded by Mr. Messina to approve the Town Board minutes of May 10, 2006 as submitted. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.
Abstain: Mr. Gordon.

Councilman Gordon said with the technical glitches we have had with the new website, he was unable to access the Town mail for several days now. Town Clerk Newkirk asked Mr. Gordon if he had a private email address. She noted Councilman Kotary provided a second address, which she used. Councilman Gordon said he would be checking his Town email, which will be functioning within 24 hours. Supervisor Egan noted it was functioning yesterday.

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The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the May 24, 2006 minutes as submitted.

Councilman Messina said this is one where particularly in the opening comments of the public on agenda items inclusion of the names of the people speaking as well as their position is helpful when they go back. He is not asking for changes to be made, just suggestion of guidance.

The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.
Abstain: Mr. Gordon.

Following item was a request from Director George Leveille, Economic Development and Planning, for adoption of SEQR Resolution regarding Proposed Zoning Law, Subdivision Regulations and Zoning Map amendments. Supervisor Egan noted the Board had a packet in the files outlining where this is at. She said the motion this evening was just to adopt the negative declaration. She said on the local law, there are more things to be done with it.

Mr. Leveille said Nancy Moquin, Planning Board Secretary and Keith Silliman, Planning Board Attorney were in attendance and both were instrumental in preparing the environmental documents. He said the environmental impacts have been carefully reviewed and they are certainly recommending that there is no significant impact and this would be appropriate for a negative declaration. He said the only reason they are in long form review is that there is a proposal to change the zoning for certain acreage in the Town that requires a Type I action response and as they can see, the impacts that they anticipate from this are beneficial not negative to the environment. He said virtually there are non impacts on the environment as a result of this adoption action. He said they recommend a negative declaration.

The following resolution was presented for adoption:

TOWN BOARD
TOWN OF BETHLEHEM
RESOLUTION No. 27
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE / NEGATIVE
DECLARATION
LOCAL LAW NO. OF 2006
AMENDING SECTIONS OF THE TOWN ZONING LAW, SUBDIVISION
REGULATIONS
AND ZONING MAP
WHEREAS, the Town Board of the Town of Bethlehem is considering the adoption of Local Law No. __ of 2006, which would amend certain

sections of the Town Zoning Law, the Subdivision Regulations and the Zoning Map: and,

WHEREAS, provisions of the Local Law would make technical corrections to both the Zoning Law and Subdivision Regulations, amend portions of the Zoning Law and include a new zoning designation, Residential Large Lot and amend the Zoning Map to include the new zoning designation; and,

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

WHEREAS, the SEQR regulations at 6 NYCRR Part 617.6(a) require that as soon as possible in an agency's formulation of an action it proposes to undertake it shall: (a) determine whether the action is subject SEQR; (b) determine whether the action involves a federal agency; (c) determine whether other agencies are involved; (d) make a preliminary classification of the action; (e) determine whether a full or short form Environmental Assessment Form (EAF) will be used; and (f) determine whether the action is located in an agricultural district and complies with Subdivision (4) of Section 305 of Article 25-AA of the Agriculture and Markets Law; and,

WHEREAS, 6 NYCRR 617.6(b) indicates that when a single agency is involved with respect to an action, that agency shall be the lead agency and determine the significance of the action; and,

WHEREAS, the Town Board has received a long form EAF Parts 1, 2 and 3 that analyzes the potential environmental effects of the proposed action, and said document indicates that (a) the proposed action is subject to SEQR and is properly classified a Type I action; (b) there are no other federal, regional or local agencies that could qualify as an involved agency; (c) portions of the area to be rezoned to Residential Large Lot are located within an agricultural district, however, the provisions of Subdivision (4) of Section 305 of Article 25-AA of the Agriculture and Markets Law do not apply to the action; and,

WHEREAS, after examination of the EAF the Town Board has considered the potential environmental impacts of the proposed action, applying the criteria for determining significance found at 6 NYCRR 617.7(c);

NOW, THEREFORE, BE IT RESOLVED,

that the Town Board of the Town of Bethlehem hereby determines that adoption of Local Law No.--- of 2006 constitutes a Type I action that is subject to SEQR and that there are no other involved agencies with respect to this action; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby declares itself to be the lead agency with respect to this action and that a full EAF was used to determine the significance of the action; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby determines that the proposed Amendments would apply to land located within an agricultural district, however, the provisions of subdivision (4) of section 305 of article 25-AA of the Agriculture and Markets Law do not apply; and,

BE IT FURTHER RESOLVED,

based upon its review of Local Law No. --- of 2006, the full EAF, public comments concerning the proposal, its own independent analysis of the proposed action, and comparison with the Criteria for Determining Significance found at 6 NYCRR Part 617.7, the Town Board, as lead agency, has determined that adoption of Local Law No. ____ of 2006 will **not** have a significant environmental impact and that a Draft Environmental Impact Statement **will not** be prepared; and,

BE IT FURTHER RESOLVED,

the Town Board hereby issues this Negative Declaration pursuant to Article 8 of the Environmental Conservation Law; and,

BE IT FURTHER RESOLVED,

that the Town Department of Economic Development and Planning is hereby authorized and directed to file any and all appropriate notices of

this determination so that the intent of this Resolution is carried out;
and,

BE IT FURTHER RESOLVED,

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

1. Adoption of the Local Law would not result in any direct action or physical change to the environment.
2. Any changes to the environment that may occur from adoption of the Local Law would be indirect and result from future undertakings that would be permitted by the Local Law.
3. Adoption of the Local Law does not include any proposal to undertake such activities at this time.

On a motion by Mr. Plummer, seconded by Mr. Gordon, ayes being Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina and Mr. Kotary, 0 against, 0 abstention and 0 absent, this RESOLUTION was adopted by the Town Board on June 28, 2006.

Councilman Plummer asked what the next steps were saying the neg dec is done and there is a hearing scheduled and we will hold the hearing. Director Leveille said correct and it is basically related to the local law which is adopting the land use regulations. He said they are now starting their notification under 239-M to Albany County for adoption of the local law that will begin tomorrow and then set a public hearing date related to the local law. He said then hold the public hearing, consider comments and then around a month after that they could be in a position to adopt the local law. Councilman Plummer said that is separate from this environmental impact statement process.

Director Leveille said it is separate and asked Town Attorney Potter to explain the subtle differences between a local law and the SEQR process. Town Attorney Potter said the SEQR review is getting the environmental side out of the way. He said then you go to the public hearing to determine whether the Town Board wants to adopt the local law as a matter of policy, irrespective of the environmental impacts which is being determined tonight. He said this action presumes there are none. Director Leveille said the public hearing is not related to the SEQR determination. He said it is related to the action which is the adoption of the local law with the amendments.

Supervisor Egan said what was done last year was 2 public hearings – 1 actually on the SEQR matter and 1 on the local law itself because the positive declaration was done. She said with the negative declaration, only the public hearing on the local law is required.

Supervisor Egan noted with adoption of the negative declaration they are also directing Economic Development and Planning Department to draft and file any of the appropriate notices of determination so the intent and the resolution can be carried out. She said that was what Mr. Leveille was talking about with Albany County, adjoining municipalities, etc.

The Supervisor said she sent an email to the Board Members in regard to setting the public hearing date. She said they thought about July 19 and it was the Police bake and anyone who wishes to attend it and support the Police Union so they have suggested the 20th.

The motion was made by Mr. Kotary and seconded by Mr. Plummer to set a public hearing on July 20, 2006 at 6 p.m. to consider proposed local law regarding Chapter 128, Zoning and Subdivision Regulations and Zoning Map. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: None.

The next item was the Major Issues Overview of Proposed Zoning and Subdivision Amendments.

Supervisor Egan noted the information was distributed. Mr. Leveille said there are copies of the information available and acknowledged the staff and their effort having just completed 18 months of zoning and comp plan last year. He said they have spent another 6 or 8 months revisiting the ordinance. He stated these changes are technical correction to the document that was adopted last year. The Comprehensive Plan identified the amendments to the Zoning and Subdivision Regulations as being the first step in the implementation of the Comprehensive Plan. A public workshop was held last month, according to Mr. Leveille, at which twenty-five to thirty people were in attendance. He said issues were reviewed and very good feedback was obtained. He said the issues are laid out on the first page of the table along with the staff recommendation.

Mr. Leveille highlighted the commercial vehicle issue. He said prior to this past year, it was illegal to park a commercial vehicle in a residential district. He said in trying to address this, they recognized it as problematic and they were unable to come to closure. In looking at it and talking to people who will be impacted by this, Mr. Leveille said, they think a reasonable alternative that respects that many people do use their commercial vehicle to go to and from work and recognizes that a commercial vehicle might have impacts on neighbors in residential districts. He said they would amend the off street parking regulations to basically allow for a commercial vehicle, defined as a vehicle used for commercial purposes or with commercial plates – exempting out things like trailers and recreational vehicles and deal with them separately – but would allow one, not more than 23 feet in length and/or 8,000 pounds – to be parked overnight in a residential district. If there were more than one of those vehicles or if the vehicle was larger, you would be required to obtain a special use permit. He said in that manner, the public, the neighbors, the residents could look at potential impacts where the vehicle would be on the property and establish parameters about the use of the vehicle on that property in a residential district.

Mr. Leveille said they have amended the regulations to prohibit the parking of trailers or recreational vehicles or boats in the front yard of a residential district. He said that means from the front plain of the front of the house forward into the front yard would not be permitted to park other than in a driveway. He said that was also considered in this.

Mr. Leveille said with regard to agricultural uses, they were trying to find ways last year to encourage agricultural use in residential districts as a good open space tool. He said they have come up with a solution that he is very good and that is to exempt the seasonal planting of crops in residential districts so if someone owns a small parcel and want to plant corn or a vegetable garden, so long as there is no construction of improvements, a building or alteration of a building for that purpose, we would permit by right. He said they have also added another section to the site plan review regulations that would provide for the Planning Board to defer and refer to the Commissioner of Ag and Markets guidelines for site plan review for reviewing new agricultural uses in residential districts. He said ultimately recognizing that the Department of Ag and Markets regulates agriculture and they wanted to be proactive in saying they recognize that if you want to develop new agricultural uses in a residential district, they would ask the Planning Board to use the Commissioner's guidelines for site plan review.

Mr. Leveille said flag lot requirements, again trying to create flexibility and he did want to point out that in the off street parking they talk about residential districts but they exclude the rural district. He said that is grouped with the residential districts but in rural applications, they do not have high-density housing and the parking of commercial vehicles is not, in their opinion, an issue. He said looking at flag lots, trying to create flexibility, in rural areas for use of land, they have amended the regulations to provide the Planning Board with authority to modify the requirements. He said especially where this could result in improved project design or better environmental uses of the land. He said they also established the authority for the development of shared driveways as an economic

issue.

Mr. Leveille said as far as mobile signs the issue had to do with basically vehicles that were used as signs for advertising purposes. He said Motor Vehicle law does not allow the Town to regulate motor vehicles. He said they are not allowed to regulate motor vehicles but the Town is allowed to regulate where they can be parked. He said it is amended to prohibit the parking in non-residential districts of vehicles, trailers and portable signs in areas other than those specifically designated for parking. He said if you have for example a property that has a lawn in front of it in a commercial district and a vehicle is placed on the lawn in the corner for the purposes of advertising, that is not a permitted place to park if the Planning Board did not permit it. He said it does not apply in residential districts.

Mr. Leveille said these are the major issues that the Town Board asked to be reviewed. He said there are many more issues enumerated and if the Board would like he can go through a couple of them.

Councilman Plummer asked for the hearing if hard copies were going to be available. Mr. Leveille said there are some and they are here. He said a couple things that are important for the record are in the mixed economic development district they recognize that in a couple of corridors – Route 9W, Route 144 – there are existing single family homes that are located in the districts. He said they now have opposed amendments that would permit existing single-family homes as a permitted use indicating that way they can expand and do all the things that any other resident could do. He said they have looked at lots that are less than 5 acres and said it is not practical to require a master plan for a 5 acre piece and so long as there is a single use, they would exempt them from the master plan requirements. Again, he noted trying to make it more user friendly.

Mr. Leveille said with the Planned Development Districts the prior code had included senior citizen housing standards in the regulations and recognize that there are stand alone projects that want to build housing for seniors that are not necessarily planned development districts so they have taken the senior citizen regulations out of the Planned Development Districts and created a special section called Senior Citizen Housing that regulates senior housing. He said it also provides for age restrictions so that if someone wanted to come in and develop a senior housing they could be restricted to only developing senior housing at that location so it would not turn around and become a market rate project all of a sudden. He said that was another subtle change to make the code more functional.

Mr. Leveille said under the land division the comp plan goal of creating flexibility for landowners, they create the land division which is an administrative division of property through the department and originally it had been contemplated primarily for areas that did not have water and sewer so they established that the minimum lot size was whatever the County Health Department said is needed for the appropriate separation. He said they did not think about what if you had water and sewer so they have amended the regulations to provide minimum lot size requirements that are appropriate for the district that the land division is in. He said this is a practical change.

Councilman Messina commended Mr. Leveille and his staff for the planning process and the work you have done listening to residents. He said Orchard Street residents and others when they came in terms of opportunities to improve where the comp plan was at and go to large lot size, as well as, innovative cluster zoning. He said he thought he had the right balancing act of looking at the comp plan, looking at something the citizens brought forward and they have done a real good job. Mr. Leveille thanked Councilman Messina.

Councilman Plummer asked how he would respond to what was received from the lady who spoke at the beginning of the meeting. Mr. Leveille said it is a challenging issue in terms of extending residential large lot across the Phillipinkill. He said they found that the area that was most impacted with a pattern of development was developing on Orchard Street, was developing as 2 acre lot housing. He said when you go on Fisher Boulevard and you consider the original

plans for that area that have been around for many, many years, basically the smaller lot tract housing was what was contemplated for that area. He said they have met on several occasions with the builder of that property with the developable acreage they have, they build something like 2 or 3 acre lots there. He said they are proposing 100 there which seems reasonable at least at this point. He said they are doing it in a cluster fashion using less land which is kind of consistent again with the comp plan. He said they certainly could look at it and go back and look at what the original intent of developing the area was. He said they certainly can consider it as an alternative but his guess is the economic value as a large lot might not be significantly different than it would be as a Residence A District. He said there is quite a demand for the large lot type of development. He said they certainly could look at it based on the comment made and come back with some recommendations.

Supervisor Egan asked Mr. Leveille to indicate on the map the 3 major areas that are being impacted in regard to the large lot. Mr. Leveille said large lot development is usually a sprawling influence but they have used it here as buffer where they have basically limited lands remaining for development, many of which have constraints. He said they have looked at Mahar Road above the Normanskill – a small area that had been zoned for Residence A and really not practical in that location and more likely there would be large lot in that area. They then looked at the lands that would be immediately south of LaGrange Road – west of Route 85, lands that will now buffer the Vista project which have severe constraints in this area and large tract housing would probably be not a practical solution there any way. He said they have looked at these lands as a way of buffering the Vista project from the higher density residential districts to the south and west. He said the third area is the area basically from the Phillipinkill south to Orchard Street and down to Delaware where there is an existing pattern of development that is at least 2 acre lots and where there has been strong sentiment among the property owners for this type of zoning. He said they have a project in front of them now on a 20 acre piece that is proposing 8 or 9 lots. He said even this proposal coming in under Residence A is coming in as basically 2 acre type project. He said these were areas that they felt were appropriate at this time. He said in the future there might be other areas in Town that are appropriate for this type of housing.

Mr. Leveille said the other thing on the zoning which everyone heard about is the residents on Rural Place, 5 and 7 Rural Place, the last round were placed in the commercial hamlet district – very strong sentiment from virtually all the residents of Rural Place -- to put them back in the core residential and they do support that, think it is appropriate and recommend that. Supervisor Egan said she had information to pass around because she did not make copies but they were the petitions submitted by the Rural Place landowners.

Councilman Kotary spoke regarding the changes attached to the SEQR statement. He wanted everyone to understand them reading them into the record. He thinks this reflects the position of the Board but also gives the importance of some of these changes that people may not understand. He said one is it is important to note – that these amendments would not result in the approval of any development activity either public or private. He said he thinks that is a potential misconception. Also, that site-specific environmental reviews would be conducted under SEQR and should be considered to scale. He said for some of these even though they are talking a bout making these changes, and declaring a negative declaration, there still may be some specific incidents where they will require SEQR. Mr. Leveille said the neg dec action is on the adoption of the amendments not on the project. Mr. Kotary said he thought that was important so that people do not come back and say well you said this covered everything. He said it covered the adoption but not specific projects. He said another important issue is that lower densities may reduce potential conflict between ag and residential uses. He said adding some of the categories make sense to lessen some potential conflict and talk about some of the flow between various districts. He said another part is that the proposed regulations are designed to protect agriculture as a business and encourage the retention of land for agriculture uses. He said that is extremely important.

Councilman Kotary asked about the commercial vehicles – indicating that a special use permit is required for 2 or more vehicles that have commercial plates or more than one for overnight. Mr. Leveille said that was correct and of any size. Mr. Kotary asked if all pickup trucks require commercial plates. Mr. Leveille said they do not, noting most do not any more. Mr. Kotary said he knew at one time they did. He said he was concerned about whether we have thought about unnecessarily restricting people who happen to own 2 pickup trucks. Mr. Leveille said again they must be used for commercial purposes or have commercial plates to be subject to this requirement. Town Attorney Potter said they would have to be over 8,000 pounds and he thinks most pickup trucks are slightly below that. He said he looked at that. Mr. Leveille said that is curb weight and not laden weight. He said that is an empty vehicle weighing 8,000 pounds or 23 feet long. He said that is a big vehicle. Mr. Kotary said if an individual had a pickup truck say loaded down with construction equipment – ladders, tool boxes, etc. – and happen to own another pickup truck, they would not need a special permit because only 1 would be underneath that category, asking if this was correct. Mr. Leveille said again it depends on the size of the vehicle so if the one was clearly a passenger vehicle and not used for commercial purposes and had more than 1 truck, a special permit use is required because he is using his residence for a parking lot for the business vehicles. He said if he had 1 and it was less than 23 feet or 8,000 pounds empty, he would not need a permit.

Councilman Kotary asked if fees have been identified. Mr. Leveille said they have not. Mr. Kotary asked about duration. Mr. Leveille said it is a special use permit, asking to rephrase that. He said there is a fee schedule for special use permits and the Planning Board may establish a period for renewal – indicating it might be a 5 year permit, permits track with the property, asking Counsel to correct him if he is wrong. He said given the fact that in a residential neighborhood people move, it would not be inappropriate to have a term. Mr. Leveille said he thought the fee was \$150.

Councilman Kotary asked in that same category mention was made against prohibition of parking trailers, recreational vehicles, boats in the front yard, inquiring about a corner lot. He said there is a front and a back yard but technically you could say they 2 front yards, what would happen with that. Mr. Leveille said they deal with that on fences and all kinds of other things. He said the Building Inspector will make a determination of which is the front on an individual basis.

Councilman Kotary asked in relation to the home occupations Mr. Leveille to explain the changes. Mr. Leveille said they wanted to provide for diminimus or uses that really had no material impact, nobody even notices it. He said they often get calls from people who want to get a letter indicating that it is okay that they do their business from their home for a bank for refinancing, are a consultant or something. He said they wanted to offer a registration possibility where someone could come in and register their home occupation, not as an official record but they have a legal home occupation that they are operating from their home. He said there is no fee associated with that and what they have said is, however, is if you have a diminimus home occupation there is no reason to tell the Town anything because there is no impact and they defined that.

Councilman Plummer said he wonders as this goes forward with the recent announcement last week of the chip fab plant in Saratoga County – he said it is a major home run for this area – and he has to believe that it is probably a ways out before it is built out and jobs created but the spin off in activity that can come with something like that, as much as we can if there are certain areas that we can be promoting in getting in the mix would be good. He said one of the things that the Town should be doing is looking at where chip fab plants exist and what kind of spin off businesses are there now. He said maybe the Town could match up businesses like that to certain portions of the Town. He said as they are going through this, it is important to keep that in sight. Mr. Leveille said it is a very good suggestion. Mr. Plummer said he knows it is nothing immediate but it certainly was not in Saratoga either but look where they are today.

Mr. Leveille said he just came from the Route 9W corridor meeting and that very issue was discussed about accessibility and improving the marketability of that

area with improvements to access. He said clearly their sense is that the impact will have immediate benefit to the Vista project and he would suspect that if things continue to move the way they are going, the absorption rate might double there. He does not think that is beyond imagination to think that the project could be filled in 5 or 10 years. Councilman Plummer asked if that is where he would view the focus right there. Mr. Leveille said initially yes and be concerned that with new residents coming to the region there is definitely growing congestion problem in Saratoga County and they may find people who want to live here and reverse commute to there. He said they have to be cognizant for increased demand for housing as well.

Supervisor Egan commented that about a year and a half or two years ago through the IDA she went to Hillsborough and California also to look exactly at the issue that was mentioned knowing the Bethlehem does not want to be a chip fab site what goes with that. She said in the last 2 years the people at BBL and the Vista together with the Town have been in constant communication with potential leads that have come off of that. She said she spoke with the Vista developer actually late Friday after the announcement and they have a meeting set up already with CEG and some of the other major players to start looking at not just the chip fab people but what is the support around it – the tool manufacturers, the maintenance folks and everything else. She said they would be going to Semi-Con West the second week in July with a whole new set of marketing materials. She said basically as a result of this announcement. She said it is a point well taken an certainly the Vista folks where they thought it was going to be 10 to 20 year build out, have moved that up significantly based on the announcement. She said she thinks it is now incumbent upon the Board to make sure everything else is in place and keep pressure on those issues like the DOT and the 85 expansion and other things to make sure it all stays in sinc.

Councilman Plummer asked if AMD (Advanced Micro Devices) was in California now. Mr. Leveille said they were. Mr. Plummer said it would seem to him that the developers focus should be on the spin off activity that is there and directly related to AMD. He said they know the business much better than he does. Mr. Leveille said he thinks what this has proven is that we do have a good regional network of folks who are working hard for this regional economic growth. He said there were a lot of doubters out there that they could pull this off especially as quickly as they have and to the credit of New York State and the Governor and certainly the Senate and the Assembly and all they have done to make this happen through nano technology growth. He said he thinks there is a great team of people working in the region who are out there on our behalf doing the marketing and the outreach to help bring these secondary industries in. He said we support them through membership in organizations and funding from time-to-time. He said he feels very good about their capability, noting this is good evidence of that.

Councilman Plummer said if there is anything else that should be done as a Town to incentive that and shovel readiness, noting the Empire Zone designation has been received. Mr. Leveille said the thing he can really say is the Town Board and certainly Supervisor Egan deserve a lot of credit for the planning they have done to prepare ourselves for this. He said they have a much clearer vision of where they want to be as a community and where things can be done. He said they are studying all the key areas where there are potential for future growth. He said he thinks the Town is poised to be able to be very selective and strategic in what we want to have in the community and need to figure out what the infrastructure needs are to help make that happen. He said he really believes that with the kind of location like the Vista it is a wonderful location, incredible access and it is in an area where its impacts on the community will be minimal, on the fringe of the community. He thinks with the work the 9W committee is doing and the LWRP committee will be doing later this year to understand where future growth can occur, there will be a clearer message to be presented to the business community.

Councilman Plummer asked if they were focusing on where the next location would be beyond Vista. Mr. Leveille said this was correct. Mr. Plummer said it was premature to say exactly where the growth will occur. Mr. Leveille said in effect yes and he thinks the MED districts that were created in the 9W corridor and

the 144 corridor were kind of envisioned as the next round of growth potential that are primarily business oriented. He thinks that was a very intelligent decision in the comp plan process and now they are meeting with the residents in terms of their viewpoints on the future of these areas.

Councilman Messina said in regard to the IDA about 6 or 8 months ago, people from Luther Forest came down and talked to them and told what was going on because they wanted to be in lock step in a way and sensitive to at least the advice they could give the Town. He said they learned through that sort of best practice experience not to make the vision too narrow and to keep the options open. He said they have sort of been doing that. He said Mr. Leveille and other IDA folks have been talking about lining up a couple other projects to move down the road too. He said the last thing is they discussed producing an annual report for the IDA which would be a marketing tool. He said this would be the first time that was done. He said all of these might help the Town out also.

Supervisor Egan thanked everyone. Councilman Gordon said getting back to residential development and the comp plan and zoning law there are incentives to hopefully encourage developers and builders to use higher density zoning, clusters, to create open space, affordable housing and said now that we have been operating with those incentives he asked if developers were biting. Mr. Leveille said the conservation subdivision pages of the zoning code are probably the least worn pages that we have right now but every opportunity they have – he mentioned the development planning committee meets monthly and have 2 or 3 projects on the agenda, many residents come and they always direct the developer or representatives to these tools that are now in the zoning ordinance. He said there are opportunities where he thinks elements of these tools are being incorporated into projects. He said one of the things they are proposing with the residential large lot is that it is an average zoning density meaning that if you have a 20 acre piece, you can have up to one dwelling unit for every 2 acres but every lot does not have to be 2 acres. He said that would enable a developer to cluster and maybe do half acre lots but get no more density for that just allow for more flexibility and the Planning Board to enable that. He said he thinks it has been a little slow but there is still more of the traditional approach to how to build housing but he thinks as time goes by and developers get more and more experience with these newer techniques and tools, he thinks they are still relevant for better use of land. He said it has been a little slow in that are in all honesty so far. He said they might have to go back the next time and see if the requirements are reasonable. He said maybe they are not attractive enough to induce somebody to take advantage of a conservation subdivision tool.

Councilman Gordon asked if affordable housing would be the same. Mr. Leveille said again, it has only been 10 months since everything was adopted and it takes a lot of time for these projects to perk. He said some folks have come in with plans where there are senior projects and they have discussed using the density bonuses but there is nothing that is really hard and fast in front of the planning committee yet using the incentives. He said they tried to right size them during the process but maybe they need to be a little deeper, or more realistic as to what the market will attract. He said they would have to keep their eye on that.

Supervisor Egan thanked Mr. Leveille.

The next item on the agenda was a request from Oliver Holmes, Commissioner of Public Works, for the approval to hire Water Tank Inspection Firm. Supervisor Egan noted there are 9 water storage tanks that need to be inspected and evaluated.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the to hire Water Tank Inspection Firm as requested by the Commissioner of Public Works. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: None.

The following item was a request from Commissioner of Public Works, Oliver Holmes, for approval to go to bid for a Wide Format Scanner. Could advertise July 5, 2006 and open bids on Friday, July 14, 2006 at 3 p.m.

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

WHEREAS, the Town desires to advertise for bids for the purchase of one Wide Format Scanner, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 5th day of July, 2006 and that bids be received up to 3:00 p.m. on the 14th day of July, 2006 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: None.

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

The motion was made by Mr. Messina and seconded by Mr. Gordon to approve the appointment of seasonal personnel as listed in the Memorandum date June 28, 2006 from Administrator, Nan Lanahan, Parks and Recreation Department at the titles and salaries listed. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: None.

The next item was to acknowledge receipt of the resignation of Town Justice, Frank Milano, effective June 21, 2006. Supervisor Egan said Judge Milano left and she said he has gone on to bigger and better with his appointment to the Court of Claims. She said on behalf of the Board and the Town, they certainly wish him their best in his future professional endeavors.

The next item was to accept the resignation of Court Officer, Joseph Sleurs, effective June 30, 2006.

The motion was made by Mr. Messina to accept the resignation of Court Officer, Joseph Sleurs, Delmar, New York effective June 30, 2006 with appreciation. The second was made by Mr. Kotary and passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: None.

The following item was a request from Highway Superintendent, Gregg Sagendorph, for approval of disposal of equipment at public auction.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the disposal of equipment as listed in the Memorandum date June 12, 2006

from Highway Superintendent, Gregg Sagendorph. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: None.

The next item was to consider the Memorandum of Understanding with Center for Economic Growth to be part of Regional Board. Supervisor Egan withdrew this item from the agenda.

The following item was an update discussion of a proposed skateboard park. Supervisor Egan said based on the last meeting when this was discussed, there will be a meeting of the proponents and the Town Park representatives, as well as, the owner of a private skateboard park to talk about this on July 12, 2006. She said there is nothing else to report on this item.

Supervisor Egan said as an update in regard to the Colonial Acres Golf course that they are waiting for the results of an appraisal that is being done by a not-for-profit. She said that is in the works and as something progresses with that or with the grant application that was submitted, they will keep everyone advised.

Councilman Plummer asked Mr. Leveille about the timing and if there has been any indication. Mr. Leveille said they are working on it. They have to get at least 2 proposals, according to Mr. Leveille, and they were trying to get the second one last week. He said once they get the proposal and they select someone it is probably a matter of 2 or 3 weeks. Mr. Plummer said one good thing is that the Environmental Protection Fund did pass last week. Mr. Leveille said he did see that and he was in contact with them. He said he forgot to mention that they sent a letter out to every parcel owner who is affected by the RRL zone change. He said they wanted to notify them of that so there were no surprises.

Supervisor Egan thanked Mr. Leveille and suggested to Board and the public for that matter is if anybody has any questions in regard to any of the information on the zoning or subdivision changes, please get in touch with staff. She said they are here a lot during the day. She said being at the desk it makes it more accessible to get to the books. She said the July 20 public hearing is exactly that, it is not a forum, it's not a question and answer. She said it is the Board's opportunity to get public comment in from the public at which time there will be a discussion and the Board will make recommendations to the Planning Department for any revisions that seem to be warranted. She said then again the changes will be made and before a vote, there is a certain amount of time that it has to be physically on each desk. She said they cannot give any more exact time frames.

The Supervisor noted that they did receive a grant of \$12,665 for scanning of the maps from the Department of Public Works from the State Education Department, Local Government Records Management Improvement Fund. She said that will be worked on.

Supervisor Egan asked if there was any new business.

MR. KOTARY: Yes, I would like to submit to the Board that we discuss the appointment of a replacement for Judge Milano. Judge Milano's resignation is effective June 21st and I believe that we should act quickly to replace and to fill... Justge Milano and to fill this position. There are several reasons for that one of which is quite frankly just a simple and practical reason that whoever fills this position will need to run for election this fall according to electoral law and the petition deadline is July 13th. If we don't act tonight there is only one more Board meeting between now and the 13th on July 12th which simply is not enough time for

that potential designee to collect and then file petitions.

I've received confirmation to that end from both Albany County election Commissioners that that date is in fact final and it does apply to this position and I think it is our duty to act quickly to make appointment so I would open up... I would ask that we have a discussion of filling that position and I think we should move tonight to replace Judge Milano.

SUPERVISOR EGAN: Any further comment?

COUNCILMAN GORDON: Yea, I think Kyle is correct certainly. The Town Justice who is appointed come to the bench immediately but they will need to run for election this fall. That being the case, I think it is important... I know not only select a good Town Justice but someone certainly willing to run and get started right away really. It's really only a couple weeks to gather the petitions. It is quite an effort to do. Petitioning actually started June 6th, I believe, so any candidates interested in the seat are really at a bit of a disadvantage. So, obviously, anyone we select unless we are selecting someone on interim basis, we would like them to want to hold the job next year as well or at least have an interest in doing that and then the people will certainly decide in November on that issue. But, I think it is important that we make the appointment right away.

COUNCILMAN MESSINA: I would like to make a couple comments. I understand the.. some of the initiative for being expeditious but this appointment is probably one of the most significant appointments that this Board will make and therefore I think the care and attention to competence to the qualifications of candidates to an open process considering all interested parties is certainly as important as expedience. I'm kind of new up here. I don't know about some of the time schedules on elective office but I know that when I was elected, my job is to do the best I can to make the best appointments I can and recommend the best candidates. So, I would like, hopefully, with my colleagues on the Board have an opportunity if that can be done expeditiously so be it, to further consider some resumes. I think I have 6 before me that I got this morning. Have a chance, with you, I hope to talk to the candidates and then make a decision about who I would support. That would be my preference.

COUNCILMAN KOTARY: If I can jump in, that would be my preference too. Unfortunately, we don't control the political calendar nor were we able to control the date of which we received the resignation. I think given those circumstances, we're put into a position to make a decision, good decision, I think we have 6 excellent resumes before us and I think that speaks to the quality of individuals that we have in Town. At the same time, I really think that we need to move tonight to appoint somebody not only to get into the job and to get up and running but again, given the fact that we have a very tight time frame and, as far as, I know the only other meeting we have between now and then is the 12th and I don't think it is realistic to give somebody 1 day to collect petitions because this appointment will be to fill the position through the end of December and this position is up for reelection in November for a new 4 year term. So, having said that and having considered the resumes, I would actually... I am prepared to move forward with a recommendation to the Board that we fill Judge Milano's seat with one of the 6 resumes we received and that person is Ryan Donovan who has tremendous qualifications.

If I may, I'll just read off a few – he's an attorney. He's a trial lawyer for D'Gostino, Krackler, Baynes & Maguire, PC, formerly with Hinman Straub. He has worked in the Albany County Public Defender's office. An Albany Law grad. Has experience working in the White House, House of Commons and in addition is currently President of the Albany Law Alumni Association.

I mean he has a tremendous amount of courtroom experience in both Town and city courts, as well as, trying cases before the State Supreme Court. He ran for this position in November. I think he'd be a great candidate and I would like to put forth a motion to the Board to appoint Ryan Donovan to replace Judge Milano.

COUNCILMAN MESSINA: I'd just like to comment and for me, it's at least clarification. The timing... I wonder if there's an option instead of looking to the next Board meeting which certainly would give a timing issue to have some sort of a special meeting that could be called in a couple of days were we could meet the candidates because I tell you, Kyle, as you know I've interviewed a lot of people. Looking at paper is different than having a chance to talk with the person. I'd like to do that with Ryan and these other candidates so it's kind of a timing thing. Maybe we have a little more flexibility than we think we do.

COUNCILMAN GORDON: I would comment that... well, first of all, Judge Milano served our Town with distinction. I'm sure he will do equally as good of a job at Court of Claims. I first read in the Times Union though over a year ago that Judge Milano was on the short list for this appointment so it's really no surprise... surely been anticipated for quite some while. The date we did not know when it would occur so I'm comfortable with Ryan Donovan because this is something I've been contemplating not just since Judge Milano's resignation but it's something that we have been anticipating for quite a while. And, certainly when folks read in the newspaper that there was a vacancy here, yes, we did start hearing from more folks but I think people who are really attuned to what was happening in Town here have been looking towards this appointment for a while and Ryan certainly is one of those individuals and is out in front. And, I'm prepared to second the motion.

SUPERVISOR EGAN: Okay. Well, I've got more discussion. Mr. Plummer do you have something to say before...

COUNCILMAN PLUMMER: Yea, I'd like to respond. I think that... I mean my view is and I am supporting Ryan and I've told Terri that so none of this is new. I've told Sam that as well. I think that one of the things that I don't want to do is to raise expectations unnecessarily as well. My view is and I've talked with Ryan I do... I think he will be a very good judge. I've talked to people in the legal profession about him. I've talked to a sitting judge about him. The recommendations are all positive. I think he's got the right temperament, the right disposition. I think he is a hard worker and I think he will be an excellent judge, number 1. Secondly and importantly to me, we all got here through the political process and I respect the political process. We were designated by a party or parties. Ryan was designated by the Democratic Party last year. He ran, he ran hard, he worked hard. He spent a lot of time away from his family, committed a lot of time and he worked hard. It is not easy to go out run for political office. We all know that it is a serious commitment. He wanted to run for that office. He was committed to it, he wants to be a judge. Okay, he ran up against a very popular incumbent, now judge... Court of Claims Judge Milano. So he lost but the committee... he was the committee designee, no one else came forward at the time. Other individuals who we've seen whose names and resumes have come forward, they're all... and I know most of them personally, others by reputation and they are fine individuals and they are terrific lawyers but they're not the ones that ran last year, Ryan did. And, to me that's important. He wants the position. As I've said earlier, he is definitely qualified. The comments that I received from people in the legal profession are nothing but positive and I think that we ought to go forward. As Kyle said, the petition process is underway now. It is my understanding that one of the major parties already has an individual out circulating petitions. I don't know if that is factual, I've just picked that up today but I'm sure if they don't, they will soon. And, so because of that I am willing to support Ryan. I'm willing to vote for him tonight. Thank you.

SUPERVISOR EGAN: Let me... my turn to jump in here. Having done this job, that job that is now vacant for over 6 years, I feel a tad bit of experience in this about what I am about to say. It is an important job, I would echo all the comments that Frank addressed the Board with earlier. And, it's not just legal education, there is a lot of other stuff that comes with it – experience, maturity, having a good gut for where you need to be very forceful and sometimes where you have to be a little more sympathetic. And, a lot of that comes with life experiences and the fact that Ryan ran, obviously... it's obvious he ran but I don't find I don't find that as the most important factor that we should be looking at.

And at the Town Board I think it is our job, independent of any political process, to make a determination and rushing to judgment to do that without full consideration of all the resumes and people that have indicated an interest to run in this position or apply for this position, I think, would be derelict of our duty. We've had... actually there are 6 before you. There were 7, 1 was pulled at 5 o'clock last night. I'm personally familiar with each and every one of the applicants and I think they are all exemplary. And, I have a great deal of concern in regard to jumping into an appointed position as significant as the Town Judge's without having the opportunity -- not only for me to talk to these individuals again but with all due respect, to have you all meet and talk to those individuals. Because, I don't know as there is anybody else on the Board that can say they are familiar with each and every one of the applicants that are out there. And an interview process would allow that to happen.

And, again, as some of our Board Members have been very good at making sure that the public is aware of the process, the designating political process is separate and apart and be happening absolutely independent of what we are doing at this Town Board. Anybody can be circulating petitions for this position as we speak. There is nothing that precludes anybody from doing that and at this point in time, I... I echo Sam's concern about jumping into this. We have time and time again talked about taking our time, looking into things and in fact, there have been discussions by the Members of this very Board when talking about positions that are not nearly as significant as Town Judge where there has been discussion in regard to having to look beyond... look to the community widening the search. And, to take those discussions and try to apply them here, moving to a point... an individual this evening anyone of them would probably, in my opinion be a rush to judgment.

Moving quickly, I can tell you right now... do we have a busy court, absolutely. Do we need to get somebody in there? Absolutely but we have the court covered through the end of July and it will move just fine. We have the coverage that we need and again, my feeling it is not this Board's responsibility to facilitate the political process. Obviously the statements that were made were accurate by all of you in regard to what the process is, how it interplays with this Board's decision at this point in time -- to basically create the appointment for the next several months, I am not comfortable with intermingling those 2 processes.

Anybody that was interested and Tim in regard to your comments in regard to -- well, it's been in the newspaper -- well a lot of things have been in the newspaper for the last year and certainly nobody is going to jump in to file an application based on a report in the Times Union. I will point out though, several months ago and I'm not sure because of the motivation but Michael Katzer who was here this evening, did submit an application in the event there was ever a vacancy. So, to hold that against any one of the people that have submitted resumes in the last 24 hours, I think, would be remise.

I would also say when I was contacted last week when it did become public what I indicated to anyone that was interested was the Town Board had not met, we had not had an opportunity to talk about process and that would be done at the Board meeting this evening at which time we would advise them what the process would be.

So, I am not comfortable moving forward with the designee this evening and I think that this position warrants more consideration before we do make that appointment. However, with that being said, I believe we have a motion by Mr. Kotary. We have a second by Mr. Gordon. Any further discussion?

MR. MESSINA: I have something to say and that is -- Danny, maybe I am appealing to other Board Members here now that's what is happening, in terms of raising expectations, as long as our process is open and goes forward I think we probably should raise expectations and you ought to have hope about an opportunity and so should the 6 candidates. That's my feeling about how this goes because I used to sit on that side and hope that a Board did things openly and with a process that was fair and that was reasonable and that was well documented not so

much for the next month or 2 but for how things go down the road.

The other thing is and here's where the pitch or feel or request comes in... one of the recent things that we discussed as a Board was the Center for Technology study. Frankly, I thought that was a good idea. Some of the Board Members did. Danny, you voted against that one but asked to have it tabled so you could get more information about it and bring CTG in to make a presentation. We did that. We stepped back. We kind of worked as a team here and I thought that was good. I was ready to move, you were not and I figured the right thing to do is wait. Before I was a Board Member, I sat out there and the issue of Town Historian was brought up and there was a recommendation put forward to hire and appoint a Town Historian. At roughly, \$5,000 compared to over \$40,000 for Town Justice. And, I remember during that discussion that Councilman Tim Gordon, to my right, raised the issue of look... I'd like to have an opportunity to look at this, to consider it further and maybe look at some other candidates. I know that some of the other Board Members felt that at that time with that level of position the appointment could be made but the comment was that on a more significant position, yes, there should be a more thorough and rigorous process. I think this is a prime example where we can demonstrate that thorough and rigorous process.

So, I'd ask you to consider tabling this so we can set up something reasonably, as quickly as we can, sensitive to schedules and meet these folks and get a good feeling and then vote.

COUNCILMAN GORDON: The people of the Town of Bethlehem are going to decide who our next justice will be and they are going to do that in September, in primary elections and they are going to do that in November. I don't think it is fair now. Justices can run in any political party and often do. They don't need special authorizations to run in the minor party and a Democrat can actually even run in the Republican primary if they so choose. I don't think it is fair to expect 6 people to go out petitioning now in 5 different recognized parties when I just don't think that's fair to those individuals. The appointments we've made in the past, the Town Historian's generally if someone becomes the Town Historian, they are Town Historian for a long period of time. But, the people of the Town of Bethlehem are going to make the decision who our Town Justice will be come January 1st.

COUNCILMAN MESSINA: I just have to respond that I understand what you are saying but I think it is recognized that incumbency has certain value to it. And, that is one of the decision that we're leading to here at this time, even if for only 5 months. So, but thanks for giving me a chance to talk. I don't have anything else to say on this.

SUPERVISOR EGAN: I would just add to that, that is absolutely right, Tim. Obviously people are going to vote in November but that doesn't make our job any less serious or how we should be considering this decision. And, if in fact, looking at it in that way, I think and again, looking at the expeditiousness and the effectiveness of the continuing operations of the court and if we're looking at an interim basis for the person to eventually run, then we should be looking, in fact, at... we have 2 resumes in front of us from our 2 Town prosecutors. These are gentlemen that have been in the court for several years. They know the procedures of the court. They know the court personnel. They know the attorneys. They know the police. They are very familiar with Judge Dwyer who will be their co-judge.

So, I mean, in the event there is this feeling that there is a need to move this evening, I think the logical and effective choice would be to consider one of the Town prosecutors. They're there, they can hit the ground running, if you will, and again, if not, then I think we certainly, you know, owe it to the people that are interested to hear them out.

Any further discussion? You want to keep the motion and second?

COUNCILMAN KOTARY: Yes.

SUPERVISOR EGAN: Any further discussion. All in favor?

Ayes: Mr. Kotary, Mr. Gordon, Mr. Plummer.

Noes: None.

Abstain: Ms. Egan, Mr. Messina.

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COUNCILMAN MESSINA: I will abstain but I want it on the record that I abstain with no prejudice against any of the candidates. My problem is with the process or lack there of.

SUPERVISOR EGAN: Thank you.

Supervisor Egan asked if there was any further business. She asked for public comment on non-agenda items.

Mrs. Capone asked if all the regulations about cars is going to be on paper that they can read. Mr. Leveille said it would be with a copy at the clerk's tomorrow.

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Ms. Linda Jasinski said she was sorry she missed most of the presentation on the zoning updates because she was in another meeting. She said something that the Board might want to think about is the skateboard issue and if the zoning were a little bit more friendly to recreational opportunities in Town, we might get a private individual to come in and build a skate park and take the pressure off the Town for doing something like that, take on the responsibility and pay the taxes. Supervisor Egan thanked Ms. Jasinski.

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Mr. Robert Jasinski said one of the things that has come to his mind as this skateboard was discussed is to consider the feasibility of a private ownership, location, and whether it is a indoor or outdoor park. He said that is one of the main things that will need to be considered whether it goes forward or not. He said he realizes the Town needs a place for someone to use in the Town but the question is how many of them and the cost for indoor or outdoor and location. Supervisor Egan said they are looking at outdoor. Mr. Jasinski said you would also have to look at a limit on when it will be closed and opened because of weather conditions. He said there will have to be some form of notification. He thanked the Board. Supervisor Egan thanked Mr. Jasinski.

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Mrs. Carol Penk said a few weeks ago Planning Board Member Engel said the Town needs more affordable housing and maybe the Clapper Meadows Project on Clapper Road in Selkirk would be the place to start. She said she thinks the Town should be more concerned about keeping the current residents housing affordable and not worry about making new housing affordable. She said recently on tv Supervisor Egan made a statement regarding the reassessment. She said it had to do with the formation of the Bethlehem Tea Party and indicated that on tv that everyone in the Town needs to tighten their belts. She said she feels that spending any of the taxpayers money on a skateboard park is not indicative of tightening the Town's belt nor is the continuous hiring of consultants to do the jobs in Town government for which the already hired employees should be capable of doing. She said if a household needs to tighten its belts, they might have to serve more meals with ground beef and forgo the steak. She said that is what should be done in the Town, get rid of having this filet mignon appetite and go for the ground beef instead. She thanked the Board. Supervisor Egan said for the record, she said she was tightening her belt.

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Mr. Albert Penk said he wanted to take exception with the commercial parking of vehicles. He said pickup trucks, he believed, are all commercial and if they are all commercial the reason they are commercial is because the fees to

register a pickup truck is less than it is for a passenger car. He said the truck is registered as a commercial vehicle. He said when you are imposing a \$150 fee, as Mr. Leveille said, to get a special permit – he goes along with the special use permit keeping track of the vehicles – but he does not think any resident should be charged \$150 for a special use permit to park a vehicle on their own private property. He said the Town is crazy again but if that is what we go with, that's what we will live with.

Mr. Penk said the next thing is on the agendas in Town, we seem to be getting grandiose and grandiose and grandiose ideas coming from someplace. The trail issue, buying of property, who is going to insure it, going through the same thing time and time again. He said now we are looking at getting a grant to buy a golf course. He said for years the golf course has been not open to the public, for some reason within the last couple years a sign shows up welcome to the public. He said they go one step further, they put decorations underneath the sign so everybody sees that it is a public golf course. He said now it tries to give you the idea that all the residents of the Town of Bethlehem are using that golf course because it is a public golf course. He said that is only a 9 hole golf course. He said if somebody wants to take on a golf course, let some private investor take that on and handle it with fees if it is so cost effective. He said he does not look at any golf course that we need in the Town of Bethlehem.

Secondly, Mr. Penk said, if you are going to have a skateboard park he feels it should again be privatized as we are all talking about privatization in all politics today that it should be an endeavor if it can afford itself and people are willing to pay for it, let it be privatized. He said they are personally tired of paying taxes for other people's pleasures.

Mr. Penk said his final item regards taking assessments. He said at the last meeting he talked about it but after he got done giving what he thought was a proper and legitimate talk, back in 2001 my assessment was \$186,300 and his tax bill was \$4,319.67. He said in 2002 he grieved his taxes and recommended everybody grieve their taxes every year. He said when he grieved them they lowered the taxes \$10,700 which brought the assessment down to \$175,600. That meant his tax bill for 2002 was \$3,959.59, he said and meant that his assessment change changed the tax bill by \$360.08 more in his pocket. He said if the Board can sit there and tell him that assessments do not raise his taxes he does not know how they can even justify it. He said the Board is taxing all the people out of the Town of Bethlehem with the assessments and if they look at the for sale signs throughout the Town – noting he did not care where they drive – you are going to see a lot of for sale signs and it is coming that if you want affordable housing, you better get affordable taxes because they cannot afford a house without paying their taxes.

Mr. Penk said he does not know if the Board should or should not get involved with an equalization rate. He does not know if it is the Board's job to get involved in equalization rate. He said he is going to look at job descriptions and what the duties and jobs are on the Board and as Supervisor. He said he does know that this year for the year 2005-2006 which was last year, the equalization rate was \$27.04. He said the equalization proposed now and he has it in writing from Ravena-Coeymans-Selkirk Central School is going to drop to \$17.95. He said he has no idea how that equalization rate could change so much from the 05-06 year to the 06-07 year and exactly how it is calculated because, if indeed, it was \$27.04 in 05-06, the assessment on his house did not change to where it would affect any rate, as far as, he is concerned equalization.

Town Attorney Potter asked to address some of the issues. He said first off the change from 2001 to 2002, your taxes went down because only the challenge was done to the assessment and everyone else's assessments remained the same. He said when you do a revaluation, everybody goes to 100 percent of full value so you are not changing relative to other people. He said the taxes in 2001 went down because the assessment relative to everyone else went down. He said this year with the revaluation, everybody's assessment will be at full value so you will not see the same change in tax amount.

Mr. Potter said with respect to the school district, the figure of \$27.04 was an equalization rate. Mr. Penk said for 05-06. Mr. Potter said it is a confusion in terminology. He said the equalization rate is the percentage at which properties on average in Bethlehem are assessed as compared to full value. He said the \$27.04 was the rate per thousand that was charged by the RCS school district to residents within the Town of Bethlehem. He said as a result of the revaluation, when everybody goes up to full value what is going to happen is next year's rate per thousand for Bethlehem residents in the RCS school district is going to be \$17.95. So, according to Mr. Potter, in effect what is going to happen is the rate per thousand is going to decrease by \$9.26. He said that does not mean you will pay less taxes, what it means is that the rate per thousand assessed value is going to go down, the theory being that your taxes will remain the same. He said, if for example, you had a house worth \$100,000 on the Coeymans side of the line and a house on the Bethlehem both people would pay the same amount of tax. He said they would have a different rate per thousand because the equalization rate in Bethlehem is different than the equalization rate in Coeymans. He said that is why you have the change. He said it is not changing your tax amount by RCS, it is changing the rate per thousand.

Supervisor Egan noted you can check all the resumes and job qualifications, they have nothing to do with setting equalization rates. Mr. Penk said he did not say anything about resumes and job qualifications. The Supervisor said it is done by the State. Mr. Penk said the Town does have something to say about reassessment, he believes, and as the Town keeps reassessing and talking about doing it in 3 years again, all the long time residents and all the senior citizens and all people on fixed income are affected so badly it is horrible in the Town of Bethlehem and they have to leave. He said what is happening is that a new person comes in with a high salary, buys a \$500,000 house, the first thing the Town does is drop it off of the \$500,000 down a percentage and that is what they assess the taxes on. He said so full value is not \$500,000 when he buys the house, it is a reduced figure. Town Attorney Potter said that is a requirement of State law. He said you are required to assess by law everybody at the same percentage of full value. He said if you have a \$500,000 house that you bought today, you should have the same assessed value as somebody who bought a \$500,000 house 10 years ago. He said that is why you go to full value because everybody has to be assessed the same percentage of full value. Mr. Penk asked for Town Attorney Potter to quote that for him again. Mr. Penk said he doubted the information. Town Attorney Potter said the person should be assessed at the same percentage of value.

Mr. Penk asked Town Attorney Potter to back up because he stopped talking about equalization rate. He said he was talking if somebody bought a brand new house for \$500,000, forget equalization, he comes into the Town of Bethlehem the price of the house is reduced right up front so the taxes are not based on \$500,000. Town Attorney Potter said a person who buys a \$500,000 house last year with a \$68.42 percent equalization rate had the right to grieve their taxes and they would have their assessed value reduced to \$68.42 percent of full value. He said they would pay taxes based on their assessed value. Mr. Penk asked where that would leave him when his house is at the price now and it was raised 25 percent. He said his is raising more than the other value.

Mr. Penk said you could talk all day long. He said he would give the figures going back to 1950, tax bills and all, will not help them or help him but the problem is the process and the system we have stinks. He said what is happening is somebody has a \$500,000 house that following year taxes go up, approximately 2 percent and we brag about taxes only going up 2 percent, for a person that had a reassessed value taken higher and this year tremendously higher, that tax increase is not 2 percent, that tax increase winds up to be maybe 5 percent because the tax increases based on the change in the property of the house. He said the new house does not move from its value after that year. He said the tax structure does not change only by the value of the tax. Town Attorney Potter said that was not necessarily true. He said he would be happy to talk about this with him. Supervisor Egan suggested that this be done outside the Board and have a conversation with Town Attorney Potter. Mr. Penk said he wished to speak with

Mr. Plummer after the meeting if her could. Supervisor Egan noted there is an Executive Session. Mr. Penk asked for 2 minutes of Councilman Plummer's time. Mr. Penk thanked the Board. Supervisor Egan thanked him.

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

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve adjourning to Executive Session to discuss a personnel matter. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: None.

The motion was made by Mr. Kotary and seconded by Mr. Gordon to adjourn the regular Town Board meeting at 7:15 p.m. The motion was carried by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: None.

Town Clerk

EXECUTIVE SESSION

The motion was made by Ms. Egan and seconded by Mr. Messina to approve an increase in the annual stipend compensation for command staff of the Bethlehem Police Department. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: None.