

TOWN BOARD  
MARCH 13, 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 Supervisor called the meeting to order 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 and invited them to join the Board in the pledge of allegiance.

The first item was a recommendation from the Planning Board regarding approval of Building Project Approval for First Columbia, L.L.C., New Scotland Road, Slingerlands. Supervisor Fuller said this is for construction of 2 new office buildings located on New Scotland Road. Mr. Chris Bette was in attendance to answer any questions. Councilman Marcelle was not on the Board at that time and, therefore, Mr. Bette gave a brief overview of the project.

Councilman Planner asked if this was the final approval that was needed. Mr. Bette said this is the final approval, noting they started almost a year ago. He said a 3/8-acre parcel had to be rezoned which has a house on it at this time. He said this is the completion of the Building Project Approval process. Mr. Plummer asked when construction would be started. Mr. Bette said they expect to begin construction in late spring. He said they are trying to find some tenants, noting they have had a lot of interest in the building.

Councilman Davis noted the other building seems to be working very well and she has heard good things. Mr. Bette noted the building is fully leased.

Supervisor Fuller thanked Mr. Bette. Ms. Saatman, Deputy Town Planner, said there are a few corrections. On page 6 of the draft building project approval, item A18, the condition required by the Engineering Division of Department of Public Works, is requiring wording regarding access to the filling basin that is already located on these lands. She said they want to add the words in the third line right after the middle where it says the parking lot areas add, and adjoining lands. She said that is to clarify that item. She said it would then continue with, of 1210 New Scotland Road.

Supervisor Fuller thanked Ms. Saatman.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve the issuance and signing of the Building Project Approval for First Columbia, LLC, New Scotland Road, Slingerlands. The motion was passed by the following vote:

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

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The next item was a recommendation from the Planning Board regarding Waldenmaier Planned Residence District, Proposed PRD No. 13 for premises

Elsmere Avenue and Feura Bush Road. Consider Resolution and setting of public hearing. Could advertise March 27, 2002 and hold public hearing April 10, 2002.

Supervisor Fuller said Mr. Rosen and Mr. Sipperly were both in attendance. Mr. Lee Rosen said he is here on the Waldenmaier Planned Residence District. He said it is a 92-unit twin-town home project that is to be located on Elsmere Avenue between the By-Pass and Feura Bush Road. He said the project is designed for the market that they call the empty nester market and that is the person that does not want a large home and a large lot and the maintenance obligations that go with that but they want to remain in the Town and live in a home that they own and be part of the community. He said the units will feature first floor master bedrooms and three will be a homeowners association established to own the common areas in the community and also to provide snow removal from the individual unit driveways and walkways and also to take care of the exterior lawn to reduce the maintenance obligations there as well.

Mr. Rosen said to bring the Board up-to-date on the history of this project, they were last before this Board in June of 2001 at which time the project was referred to the Planning Board for its recommendation in accordance with PRD procedures and after several meetings and review of the project, they received the unanimous recommendation from the Planning Board in favor of the project. He said also during that process the SEQR review was conducted and they supplied additional information and supplemental reports including a phase 1 and phase 2 archeological study and a traffic impact study and after review and consideration of these materials, the Planning Board also recommended a negative declaration be issued for the project. He said that is the project in a nutshell and where they are. He said the next step would be to hold a public hearing on the project.

Supervisor Fuller thanked Mr. Rosen. Councilman Plummer asked if the vote this evening was for the public hearing. Supervisor Fuller said it was just to set a public hearing.

Councilman Plummer said he had talked about the possibility of sidewalks and he noted there were references in the material. He asked where this discussion stands. Mr. Rosen said right now they have sidewalks along Elsmere Avenue in front of their project. He said these go essentially from Feura Bush Road, not all the way to the By-pass. He said it was to about 800 feet short of the By-pass. He said that is all the right-of-way they have control over to put sidewalks. He said it would definitely go to that area. He said they will be working with the Planning Board and the Town Board and DOT and everyone to work and try to extend them as far as to the By-pass, which he thought, would be desirable. Councilman Plummer agreed. Councilman Davis said she thought particularly because their market is, as he said, empty nesters and she thinks that would be an important feature for them. Mr. Rosen agreed. Mrs. Davis said since this has come forward, she has heard nothing but eager, eager people looking for this particular project to come to Town because we do not have this kind of housing for that market. Mr. Rosen said they also have had numerous calls and interest in the project. Supervisor Fuller asked if they had a waiting list. Mr. Rosen said they do have a list. Councilman Lenhardt said anyone who has contacted him has asked why they are holding this project up. Supervisor Fuller said that has been asked a lot on this proposal. Councilman Davis said she agreed with Councilman Plummer on the sidewalk issue.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve setting a public hearing for April 10, 2002 at 7:30 p.m. to consider proposed Waldenmaier Planned Residence District, Proposed PRD No. 13 for premises located at Elsmere Avenue and Feura Bush Road, Delmar. The motion was passed by the following vote:

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

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The following item was a request from Terrence Ritz, Engineering Division, Department of Public Works, for approval to go to bid for corrugated aluminum pipe, corrugated metal pipe and plastic pipe for the year May 1, 2002 to April 30, 2003.

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

WHEREAS, the Town desires to advertise for bids for the purchase of corrugated aluminum pipe, corrugated metal pipe and plastic pipe for the year May 1, 2002 to April 30, 2003 for use of Town Departments, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 20<sup>th</sup> day of March, 2002 and that bids be received up to 3:00, 3:10 and 3:25 p.m. respectively on the 1<sup>st</sup> day of April, 2002 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

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

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The following item was a request from Engineering Services Administrator, Michael Cirillo, for approval of acceptance of deeds along the northerly side of New Scotland Road, westerly of Upper Font Grove Road, Slingerlands. Supervisor Fuller said the easements are requested for installation of future town utilities.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to approve the acceptance of deeds along the northerly side of New Scotland Road, westerly of Upper Font Grove Road, Slingerlands for future installation of town utilities from Mr. and Mrs. John MacAffer and Kimmey C. Decker and Duncan S. MacAffer (Trustee to Prentis Carnell, Jr.). The motion was passed by the following vote:

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

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

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve the appointment of seasonal personnel as listed in the Memorandum from Administrator, Parks and Recreation Department, Nan Lanahan, dated March 13, 2002 and on file in the Town Clerk's office at the titles and salaries listed. The motion was passed by the following vote:

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

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The next item was a request from Highway Superintendent, Gregg Sagendorph, for approval of award of bids for 10-ton Vibratory Compaction Roller; Gasoline and Diesel Fuel; Heating Oil; Guide Rail; Topsoil; In-place Paving; Milling of Bituminous Asphalt; Gravel; Washed Crushed Stone; Rental of Track Excavator; Rental of Construction Equipment; and Utility Repair Crews.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for one (1) 10-ton Vibratory Compaction Roller to Robert H. Finke & Sons, Selkirk, NY at a bid price of \$59,880 as requested by Highway Superintendent, Gregg Sagendorph. The motion was passed by the following vote:

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

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The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for Gasoline and Diesel Fuel to Long Oil Company, Albany, New York at the bid prices listed in the bid document as requested by Gregg Sagendorph, Highway Superintendent. The motion was passed by the following vote:

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

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The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for Fuel Oil to Long Oil Heat, Albany, New York as requested by Gregg Sagendorph, Highway Superintendent, at the bid prices listed in the bid document. The motion was passed by the following vote:

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

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The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for Guide Rails to Chemung Supply Corporation of Elmira, New York at the bid prices listed in the bid document and as requested by Gregg Sagendorph, Highway Superintendent. The motion was passed by the following vote:

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

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The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for Topsoil to David Frueh Contracting, Glenmont, New York as requested by Highway Superintendent, Gregg Sagendorph at the prices listed in the bid document. The motion was passed by the following vote:

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

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The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for In-Place Paving to Hudson River Construction, Albany, New York for items 1 through 5 as requested by Gregg Sagendorph, Highway Superintendent at the price listed in the bid document. The motion was passed by the following vote:

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

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The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for Milling as requested by Gregg Sagendorph, Highway Superintendent, at the bid prices submitted to the following:

Items 1, 2 and 3 to Callanan Industries, Inc., Albany, New York  
And  
Items 2 and 4 to Palette Stone Corporation, Saratoga Springs, New York.

The motion was passed by the following vote:

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

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The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for Gravel as requested by Highway Superintendent, Gregg Sagendorph, at the bid prices submitted to Callanan Industries, Albany, New York; Carver Sand & Gravel, LLC, Halfmoon, New York; and R.J. Valente, Kinderhook, New York for items as outlined in the Memorandum dated March 6, 2002. The motion was passed by the following vote:

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

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The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for Washed Crushed Stone to Callanan Industries, Albany, NY or Carver Sand & Gravel, LLC, Altamont, NY as requested by Gregg Sagendorph, Highway Superintendent and the prices submitted in the bid documents. The motion was passed by the following vote:

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

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The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for Rental of Large Track Excavator to Robert H. Finke & Sons, Inc., Selkirk, New York or Park East Sales, LLC, Troy, New York as requested by Gregg Sagendorph, Highway Superintendent, at the bid prices submitted. The motion was passed by the following vote:

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

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The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the award of bid for Utility Repair Crews to the vendors listed, copy attached to the Memorandum dated March 6, 2002, for the items indicated and requested by Highway Superintendent, Gregg Sagendorph. The motion was passed by the following vote:

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

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The following item was a request from Commissioner of Public Works, Bruce Secor, to go to bid for Two (2) Chemical Bulk Storage Transfer Stations. Could advertise March 20, 2002 and open bids on April 4, 2002 at 3:00 p.m.

Councilman Plummer asked Mr. Secor about the Department of Environmental Conservation requiring the Town to do this and what would be included in the bulk storage? He said he does not know what it is. Mr. Secor explained that this is a new requirement for on-loading and off-loading the vehicles to have containment areas for the trucks that are making deliveries. He said these are basically containment facilities. He said the plants have been upgraded and inside of the plants in terms of piping or containment inside the plants, this is now work outside the plants. He said the whole thing is that if someone is unloading chemicals and if a hose was to burst or the truck was to have a problem and the material drops on the ground, you have a way to contain that without it getting off into the environment. He said these are new requirements and they are trying to get into compliance.

Councilman Davis asked if this was a mandate that no money is provided for. Mr. Secor said it is one of the unfunded mandates. Councilman Davis asked if there is an estimate of the cost. Mr. Secor said he did not have it with him but he thought it was like \$56,000 or \$60,000 per location.

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

WHEREAS, the Town desires to advertise for bids for the purchase of two (2) Chemical Bulk Storage Transfer Stations pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 20<sup>th</sup> day of March, 2002 and that bids be received up to 3:00 p.m. on the 4th day of April, 2002 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

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

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Councilman Lenhardt said even though it is an unfunded mandate by the State, he asked if it was in the budget. Mr. Secor said the extent of this is not. He said they are going to have to come back and request funds from the Capital Reserve Account for this. He said he thought they had gotten enough in there but when the final estimates came in because this was a second redesign which is about half as costly as the first one and it is still going to require some Capital money.

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The next item was an update on Water and establishment of Water Use Restrictions by Commissioner of Public Works.

SUPERVISOR FULLER: Why don't you tell us where we are with the water?

MR. SECOR: Okay, on the water update, I'll just start with the reservoir levels. We gained about another foot since the last time I reported. We are now at, as of Monday, at elevation 377.9. That puts us at about 30 percent of total capacity. But in terms of normal capacity, we're not doing as well. This time of year, the reservoir should be at almost 75 percent full and we're sitting at about 30 percent. So, it's still substantially less than what we would normally be at.

The good news is that the City of Albany, and I gave the Board a copy of the letter from the City of Albany, which is authorizing us to purchase up to 2 million gallons a day for the remainder of the year. And, a copy of that is with the Board. Based on that approval from the City and making some conservative estimates as far as draw down curves, we're starting to develop a series of numerical estimates of where the reservoir will end up at the end of this year based on what assumption have where it's going to be on June 1<sup>st</sup>. So, whether you assume we're going to get a wet spring, an average spring or a dry spring, you can make 3 or 4 reservoir draw down curves and right now, it looks as if we can be no worse off than we were at the end of last year at the end of this year if we are able to restrict flows considerably and also keep our peak days down. Usually that is driven directly by outside watering, lawn watering or outside irrigation. So, based on that, and I'm still working on those curves, I'm ready to present those. I want to go over those with a couple of the plant people but based on that and because there is a time need to get notice out to the community and get notices published.

In the resolution that we've drafted for the Board to consider, again we cited back to the 1978 local Town Law or ordinance that was passed then and using that as the basis to set various restrictions. It is up to the Town Board, loosely translated, the

law says that the Town Board will from time-to-time set rules and regulations for the use of the public water supply. So, this draft resolution, we are suggesting that we at this time simply say no watering of lawns from the public water supply. And, we can always back off from that if we get a very wet spring and our conditions turn out to be much better than what other scenarios would show, we can always back off from that. But, at this time, we are recommending that we simply start off saying we're going to do no lawn watering and the second one is that hand held hoses may be used to hand water flowers and ornamental shrubs only between the hours of 6 and 8 a.m. on odd and even basis. Properties with odd number addresses may water on odd days and properties with even number addresses may water on even days.

Again, this is more restrictive than we've ever had before in terms of controls of the use of the public water supply but the reservoir has never been in this situation before. By allowing odd and even day watering, I think we can maintain... we won't have all the shrubs die or all the flowerbeds die in the Town. That we might be able to do that, as long as, we stay away from the lawn watering.

Another condition is that we are moving ahead based on the criteria set forth by DEC on issuing new building permits. There is a lot of contractual relationships there where people have sold their homes and contracted for new homes and we are at this time, on a month-to-month basis certifying to the DEC on building permits and so we'll have to continue to watch that and update the Board. But, with that, I would ask the Board to impose a condition on all new building permits that no new lawns be installed at this time. So, again, there is no sense starting or putting in a brand new lawn if you can't water it, so – you know – we'll get the building and get the contractual commitments taken care of but stay away from the lawns until this fall. Actually planting lawns in the fall is much less labor intensive and it's much easier for the lawn to take hold just with natural moisture of the nights and then there is better dew in the morning.

The next item is no new swimming pools unless water to fill the pools is trucked in from a private source and again, I'd ask the Board, that we make this a condition of any permits that are issued. If someone has contracted to have a pool over the winter and are committed to have it installed, you know, I think we can go ahead and do that but we just ask them to truck the water in and that we have a building inspector accompany that so they could inspect or see the fact the water had been brought in from an outside source.

I stayed away from existing pools. You know, if someone has an existing pool in your yard and they have drained it down a foot or two for the winter and need to fill that back up, I stayed away from that because I'm not sure how that fits into everyone's individual interpretation of the word non-essential use. We've struggled with that for 2 weeks and really don't have a good definition to try to give to the Board. We will continue to work towards that but I tried to put some examples down... said be it further resolved that the Town prohibits the use of the public water supply for non-essential uses such as but not limited to no washing down of driveways or walkways, use a broom or leaf blower. No washing of the exterior of buildings. The other thing that came up in discussions is that a lot of groups use car washes as fund raisers whether it be a church group or a civic group might use a car wash and I would ask that this year they find an alternative activity. You know, still do the fund raising, still do the community service but try to do that in... as an alternative activity.

The list is not... we couldn't simply list everything that anybody might want to do with the water that we might want to argue over but if we take care of the lawn watering and we control what other watering goes on, try to get back on some of the non-essential uses, I think we can keep this under control. So, those are the recommendations that we are making at this time.

SUPERVISOR FULLER: Do you want to highlight the change in the DEC restrictions where it was? We need to now identify that we have the water

available for new connections rather than banning connections. They had changed that to work with us on this.

MR. SECOR: Right. On March 8<sup>th</sup> the DEC sent us a new letter and...

TOWN ATTORNEY ALESSI: Excuse me, Bruce, but may I suggest you start with what the original condition was and that the complete ban on connections and what they moved to so that the public understands why we've gone through what we have gone through.

MR. SECOR: The original... unfortunately I didn't bring that letter down with me but the original special condition number 2 said there shall be a moratorium on building... and if you have it with you, Bob, I would appreciate it.

TOWN ATTORNEY ALESSI: Sure, they basically said there shall be no new connections period.

MR. SECOR: Yes and then they had some... 2 or 3 sentences after that that talked about exceptions or that the DEC would look at hardship cases. And, so we sent 2 or 3 examples of building permit applications to the DEC and they asked us for some additional information. They wanted to get an idea of the number of permits that were out there and the type of uses that would go on. Some of that was included in the engineer's report that was attached to our application. But, we submitted some additional information and Mr. Shea gave me a list of potential building permits... we issue between 10 and 20 permits per month so if you hold things back for a month or two, they kind of build up. But, having worked that through and the DEC looked at it, they issued a new letter on March 8<sup>th</sup> to clarify the applicability of prohibiting new water district extensions during the emergency period and to have the Town of Bethlehem exercise appropriate authority to approve connections only if it can be certified that there is sufficient water to meet the supply needs of both existing users and new users.

They reworked item number 2 to say, for the period during which the emergency supply is to be taken from the Hudson River; the Town will not consider nor approve any new water district extensions. New connections, i.e. not approved prior to January 18, 2002, within the existing water district may be approved by the Town only if the Town provides a certification supported by a written analysis that sufficient water supply is available to serve the water demand of both new user connections and existing water district user connections. Sufficient water supply shall be defined as that necessary to meet the daily needs of both historical users and projected new users over the next 24 months. Such water use demand may be reduced through the position of mandatory water conservation measures. The Town shall provide all such connection approvals certification support analysis of the department on the first of each month.

And, I have put together a set of documents to submit to them and so we have started issuing the permits that were backlogged for the month of March. But, we will do a monthly certification. Basically what this boils down to is that March and April probably are not going to be a big decision making time. By the time we get to May, depending upon what rains we have received between now and the end of May, after that it could get a little stickier. And, again, I will continue to update the Board and share copies with you of the certifications that we are sending in.

COUNCILMAN MARCELLE: Bruce, you were here for First Columbia's presentation, how does that affect them?

MR. SECOR: Well, they would have to be... they were named in the engineer's report as a project under review. And, they were named again in the letters that we sent in as far as projected building that is going on in the Town. Their property is not in the water district so they would be outside the water district and we would have to apply to the DEC for a special exception to allow them to build as an outside of the district customer or extend the district to them. The truth of the

situation is there's... and I'd have to talk to the builder, but there's usually a 10-month to 12-month build out time for something like that. And, whether it is that property or the property down on 9W, the proposed Wal-Mart, you know, there is almost a 1-year construction time. And, with any luck, we'll be past this crisis by the time we have to deal with that. Buildings like that are not huge water users, you know, office type building. If you took the same piece of property and put apartment complexes on it, I think you would use a lot more water than you would with an office type building. So, but again, that's something we'll have to apply for. It is not in the district and it's not on the list of what we currently certified for. But, it is certainly something that we can apply to.

COUNCILMAN DAVIS: Bruce, would the underground automatic water sprinkling systems be part of the building permit that are certified or is that a separate issue?

MR. SECOR: It would be a separate issue and I thought we had already banned those. We can put those back on that list...

COUNCILMAN DAVIS: No... yes, I mean... I was going to say...

MR. SECOR: But, I thought we had already taken care of that.

COUNCILMAN DAVIS: I was going to say, should that be in this list?

MR. SECOR: Yes, it should be.

SUPERVISOR FULLER: We're banning those that are already in the ground. You're not going to be able to turn them on.

MR. SECOR: Well, we've said... as of this, there is no lawn watering so even if you have one, we're asking you not to turn it on, telling you not to turn it on. But, we're also directing the Building Inspector not to issue any new permits for in-ground irrigation systems at this time.

COUNCILMAN DAVIS: I have 2 other issues.

MR. SECOR: Go ahead.

COUNCILMAN DAVIS: Just 2 other issues to add while we are adding. In number 4 and you and I spoke about this today. But, I did have a question about people who have established swimming pools and many people drop the level of their swimming pool and they will have to fill those pools up. I know there are people in the community who are aware of our water shortage and I believe that they are in good faith prepared to contract with those companies that truck water in. I don't have a problem with adding that to number 4 as well. I think we should consider it. I don't know how the rest of the Board feels about it but I think that as long as we're dealing with swimming pools, maybe we need to be consistent.

MR. SECOR: Again, I look for the Board's direction on that.

SUPERVISOR FULLER: How much water would that... what is the amount of water that it takes to level these pools off? There have been people asking.

MR. SECOR: There are so many different sizes and shapes... I'd hate to try and hazard a guess. But, you are probably talking anywhere from 500 to a few thousand gallons depending on the size of the pool.

COUNCILMAN LENHARDT: What impact would a rule like that have on the school district and the Town for that matter who also have pools?

MR. SECOR: Well, that... again, I have no idea. Nan, do you have any idea how much water you need to fill the pools up?

MRS. LANAHAN: We estimate it would take 85,000 to 90,000 gallons a month to operate the pool complex between the showers and pools.

MR. SECOR: But, are the pools drained right now or are they partially full?

MRS. LANAHAN: No, they are full. But, depending on the condition of the spring and how much water we have to drain off and refill and clean.

COUNCILMAN PLUMMER: Let me ask you, even with... let's assume that we pass these measures, we've got 3 million gallons coming from the Hudson, we've got now the 2 from the City of Albany, we've got roughly 1 from Vly from the idling as you characterize it, and then we've got about 500,000 gallons from 2 wells that we have. Not including Guilderland, that puts us at about 5.5 million gallons a day.

MR. SECOR: Well, the one well is shut down and the other well is about... rated at 200,000, we're running at about 200,000. The projections we're using since the wells have not recovered. At this time of year, the wells would normally be at 30 or 40 feet, and they are at 12 feet so we're not projecting those through the whole summer.

COUNCILMAN PLUMMER: Okay, let me go back then. We got 3 million from the Hudson, 2 from the City and a million from Vly, there's 6 million gallons a day. Are you using all of that?

MR. SECOR: No, right now we're averaging about 5 million gallons a day but in the summer that can easily go to 7 and 8 million gallons a day with the outside water use because there is a substantial increase. Without controls that could go to 9 or 10 and we simply can't supply that.

COUNCILMAN PLUMMER: Has it done that in the past?

MR. SECOR: Yes. There's peak days of 8 and 9 million gallons are common in the summer and that drains tanks and it stresses the system. And, that's why we've always had water conservation measures or control measures. You simply... everyone can't turn on the sprinklers at the same time. The system simply isn't designed for that.

COUNCILMAN PLUMMER: About a year ago, what was our status? Were we about the same as far as usage?

MR. SECOR: Yes, actually the usage over the last 3 years has averaged right about 6 million gallons a day.

COUNCILMAN PLUMMER: Okay and what measures did we... conservation measures did we impose the last 3 years?

MR. SECOR: I think last year... no, I'd have to check. I don't know that last year that we went to the 6 and 8 in the morning and 6 and 8 at night. I think we might have.

COUNCILMAN PLUMMER: Yes, I thought we did something...

SUPERVISOR FULLER: Odd and even numbers as well.

MR. SECOR: I think you are right.

COUNCILMAN PLUMMER: Why wouldn't we do that this year?

MR. SECOR: Because...

COUNCILMAN PLUMMER: Knowing that we have these sources?

MR. SECOR: Because you would still get to the point where we would produce... we'd be forced to produce more water than we can pull out of the Vly Creek reservoir to meet the peaks. It all goes back to peak. All the numbers we are talking about are average numbers but what we really have to look for are peak days. If you have 3 or 4 dry days in a row and you have 3 or 4 peak days in a row is where we get into trouble. Taking water from Albany we need to take at a constant rate over 24 hours so that we can't take more during the peak hours and less during the middle of the night so we've got to let tank levels come down and then use that water to refill tanks at night. It just becomes more and more difficult to save the right amount of space each night depending upon what you think the next day is going to bring. So, it just is an awkward situation but the big difference is the reservoir is still in an emergency state. And, until the reservoir at least climbs back up out of the emergency level, I guess my basic point would be, we either have an emergency or we don't. And, right now we do. And, so we need to take some extraordinary measures to try to get ourselves out of that emergency. And to not address that and say we're going to go ahead and continue to water, we could very easily pull this reservoir down into a disaster stage by September. And, then there is no place to go.

COUNCILMAN MARCELLE: Bruce, how much water do we save with a total ban as opposed to an odd/even ban? I mean what's the gallons per day or gallons over the summer that we would save? And... you can quantify it for me.

MR. SECOR: I really don't have a good number for you. What I can tell you is that the residential area averages about 3 million gallons a day in the wintertime and that can easily go to 8 million gallons a day... 7 or 8 million gallons a day on peak summer days. So, it more than doubles and that's where the problem comes. But, to try to say we can save 100,000 or 200,000 or 300,000, I don't have those numbers available right now.

COUNCILMAN DAVIS: I guess, Bruce, one of the things that keeps coming back to me is the use... non-essential or the word non-essential uses. And, I really think that that's critical here. That we need to look at what's essential. And, I'm not certain that filling a swimming pool if there is an outside source, using public water is an essential use of the public water supply. There is another source.

COUNCILMAN MARCELLE: Oh, if I could... just a few seconds... because that is something that I agree with Councilwoman Davis on. I think if we are going to do it for swimming pools, we should have a uniform rule that out of fairness if we're going to require new pools users to purchase water, we probably should have a uniform rule for purchasing water in the Town. Probably another issue with respect to the enforcement but assume that the people make a good faith effort in this Town to comply with such a rule, I'd be in favor of that.

What does trouble me though about the proposal is still the term non-essential uses. I'm of the position that really we should be telling the people of the Town what they can and can't do. That that's what fairness requires when we pass an ordinance so they are on notice what behavior is legal and what behavior is illegal. And, as we sit here and even discuss it, I'm not sure if we polled the audience or polled this Board, we could agree on what non-essential and essential uses are.

SUPERVISOR FULLER: You're right on that.

COUNCILMAN MARCELLE: So, while I have no problem with the items you enumerated such as no washing down of driveways or the washing of exterior buildings, I would certainly in my opinion, would be concerned about actually passing an ordinance that reference non-essential uses. And, that's...

MR. SECOR: The provision can work without the word non-essential. Just that, you know, prohibits such uses but not limited to and list what you are going to list.

Problem is, I don't know that we could sit here and try to list every activity that somebody could come up and... you know... I'm not sure that we need to.

COUNCILMAN PLUMMER: You've done this before though, you must have a good sense that items 1 through 4 are going to save a certain amount, don't you?

MR. SECOR: Yes, I mean there is a substantial amount there. It should save us from going from seeing the residential area go from 3 million in the winter to 6 or 7 million in the summer. It would probably get us to go from 3 million up to 4, 4 ½. So, we are still going to see some additional water use but it should stop the doubling in the summer and that's where the problem would start to creep in.

SUPERVISOR FULLER: Where is your peak? What do you view as the peak time?

MR. SECOR: It starts in May and runs right through September. But, sometimes the month of May has... sometimes the month of May individual peak days have been higher than any other day during the year.

SUPERVISOR FULLER: Okay.

MR. SECOR: Can't explain it but that's what happens. Whether people first get out and that's when they get out the hoses down and hose down the driveway and hose down the walkway and you know or whatever.

SUPERVISOR FULLER: Washing cars.

MR. SECOR: But, anyway, you know, that sometimes May... the first few warm days in May is some of our peak usage days and that's why I'd like to get these things... whatever we do tonight to get them in place so that we can put them in the notices, get them in the water bills and get the notices out to the public.

SUPERVISOR FULLER: When you're saying no new lawns to be installed... is that new construction?

MR. SECOR: New construction and...

SUPERVISOR FULLER: Or is that somebody in an old house that decides they want a new lawn?

MR. SECOR: No new lawns.

SUPERVISOR FULLER: Period.

MR. SECOR: You know, it would be both. Again because you could have a lawn that you were proposing to have torn up and reseeded this year, this is simply not the year to do it because it takes 7 to 10 days of continuous watering to get the best parts of those seeds to germinate. And, we just simply can't do that.

COUNCILMAN LENHARDT: Well, Bruce, doesn't just banning lawn sprinkling take care of new lawns. I mean it would be not cost effective for anyone to proceed to seed a lawn without being able to water it.

MR. SECOR: I agree with that but again, the idea here is to give something... something that the Building Inspector can turn to when somebody says...

SUPERVISOR FULLER: Absolutely.

MR. SECOR: ...well, why can't I do this. Just to try to eliminate the arguments and the going back and forth. No, it's passed by the Town Board and that's a condition now of your building permit.

COUNCILMAN DAVIS: I think it eliminates a frustration also of someone putting in a lawn and that expense and then they are told they can't... this way they know upfront.

MR. SECOR: Right.

SUPERVISOR FULLER: You also have an issue with some of these individuals where their business is landscaping and they're being asked to come and begin to fertilize someone's lawn for example. Well it doesn't do any good to put fertilizer on their lawn if they can't water it and they've been asking the questions right now. So, we have to do a better job of getting that message out before we have people in Town spending money to have a service provided on their property when in fact they can't.

MR. SECOR: But, again, there may be some levels to that. Usually those systems have 4 or 5 treatments or 6 treatments, you know. The earlier treatments probably would be wetted in by whatever natural moisture is still there and each treatment is not for the same thing so I think I'd actually recommend to the people for them to talk to their contractor to see which ones make the most sense. It may simply be that the ones the lawn food that would have normally been put down in the hot of the summer, which requires the watering, is the ones they should skip. But, I wouldn't jump to that conclusion. I think I'd actually have them talk to their contractors because there may be some other controls or leaves type stuff that can be put down early that is still going to be effective without water.

SUPERVISOR FULLER: And, what do you find with the car washes? They have said that they recycle the water, are we keeping track of the amount?

MR. SECOR: I've spoken directly to a couple of the car wash people. One of the companies recycles more than 50 percent of the initial wash water. I'm not sure that is uniform throughout them and I haven't had an opportunity... but I'll get letters out and ask them for a specific response on what percentage of the water is used or reused and how many gallons they feel it takes for... whether it is the same for every car or whether a small car takes more or less than a large car. We'll try to get some details from them. But, the one operator did stop and step in... and I know the operator in Glenmont actually paid a drilling company and he put \$5,000 into the ground and got a dry hole. And, he has looked for alternatives to try to work with us but it just hasn't been successful. So, you know, so I've stayed away from that too. I mean, at this point if we don't get out of the emergency and we start heading toward other levels, I... you know we can deal with that but I don't want to play too many what if games before we have to if we can stay away from that.

SUPERVISOR FULLER: And, we don't want people going out of business as a result of this.

COUNCILMAN PLUMMER: This does pertain right now to residential only, right, 1 through 4?

MR. SECOR: No.

COUNCILMAN PLUMMER: You are going to have number 2 apply to businesses as well.

MR. SECOR: Yes.

COUNCILMAN PLUMMER: You will put certain companies out of business.

MR. SECOR: I mean, no lawn watering, is no lawn watering and...

COUNCILMAN PLUMMER: No, number 2...

MR. SECOR: Hand held can be the same. In other words, if a business has flowerbeds, they can get out and do the watering during these hours. We would expect they would do that.

COUNCILMAN PLUMMER: You are limiting it to those hours for businesses?

MR. SECOR: Yes. I mean a lot of custodial staffs come in before the office staff does.

COUNCILMAN PLUMMER: Well, businesses are... that's not going to work. Have you talked to any of them?

MR. SECOR: No.

COUNCILMAN PLUMMER: I can tell you right now that won't work.

MR. SECOR: That they can't water their flowers...

COUNCILMAN PLUMMER: Not enough. I mean, there will be an effect that certain businesses will end up losing a considerable amount of revenue. That's the reality of that.

MR. SECOR: No, I'm sorry. This will apply... I'm sorry, I'm thinking of something different. For example, if this is in front of... if I owned a real estate store and I had a flowerbed in front of my real estate store, or whether it is an insurance store or whatever else...

COUNCILMAN PLUMMER: So, if you're selling the product then this does not affect you.

MR. SECOR: Right, no, no because we are not getting into that, no, no.

SUPERVISOR FULLER: This is not your nurseries in there.

MR. SECOR: This is not the nurseries, you know, just like we're not dealing with the car washes.

COUNCILMAN PLUMMER: Or the landscapers that are out...

MR. SECOR: Right, no. Now, what we are going to do, is I'll go out on Route 85 and speak to Mr. Olsen and ask him – he has a big pond out there whatever watering he can do out of that pond we would ask him to consider. But, no, that is essential to his business and to keep his stock alive. And, also the hand watering... I mean if somebody buys a shrub, this hand watering every other day should be enough to keep the investment that they have made alive.

COUNCILMAN DAVIS: Bruce, should we have all of a sudden the monsoon season upon us, which is very possible...

SUPERVISOR FULLER: That will be good news.

COUNCILMAN DAVIS: Right, then we can relax these?

MR. SECOR: Absolutely.

COUNCILMAN DAVIS: And, should the opposite happen and we go into a deeper drought, we may have to become even more restrictive. I mean, I think that this is something that we all need to understand at this point.

MR. SECOR: Right and again, these are...

COUNCILMAN DAVIS: These aren't engraved in stone.

MR. SECOR: No, these aren't engraved in stone. And, it's not... fortunately the Town has an underlying audience so that the Board can do this by resolution. We don't have to pass a new law each time we want to change something. So, these are much easier for the Board, you know, to change. I mean, we don't want to drive our community crazy by changing the rules every 2 weeks but at the same time, it isn't something that is going to be etched in stone that we can't be... react to the weather.

COUNCILMAN DAVIS: Right.

COUNCILMAN MARCELLE: Bruce, can I go back to an earlier question that I had?

MR. SECOR: Yes.

COUNCILMAN MARCELLE: Is there a way to ascertain the difference between a total ban as opposed to an odd/even system for lawn watering?

MR. SECOR: I'm sure I could try to get somebody to do some estimates. I mean, it just... it's tough. One of the reasons we are recommending the morning only instead of trying to go odd and even, you know, night and day or whatever, if we do have to bring people in to patrol, this way if they see any watering going on at night, they can just tell the people it is not allowed, you have to do it in the morning. So, that we cut half the problem out rather than going around chasing this thing night and day. But, I mean, I would never go here to this if we weren't in the situation we are in right now. And, I just think we need to take some strong action, see where we are. The reservoir is coming up. The main reason the reservoir is coming up is because we've taken the withdrawal rate from 3 or 4 million gallons a day back to 1. You know, if we hadn't done that, we would have straighten this thing out and been dancing along the top of the disaster. So, I mean, that has been a step in the right direction. You know, along with additional purchases from Albany.

COUNCILMAN DAVIS: Bruce, I don't mean to be the wicked witch from the west or east or wherever she is from but under the... washing of driveways and walkways and no washing exterior of building, and again, we spoke about this earlier, I also would like to add – I don't know how the Board feels about this but I will just put this on the table – no car washing at home in driveways or at least limiting it somehow. I don't know how we monitor that but I think a very strong recommendation needs to be made. I mean that's a very heavy use of water at this time of year and through those peak months. There are ways that people can get their car washed other ways. Again, that whole non-essential, I think is a question there. But, I am just putting it out. That's how I feel and I think....

SUPERVISOR FULLER: Somebody called in here last week and said they drove by a residence; they gave the address where the gentleman had washed 3 cars in his driveway on a Sunday afternoon.

COUNCILMAN LENHARDT: I think you are going to receive many; many more phone calls once an ordinance is in effect. That will be the big policing of the problem.

SUPERVISOR FULLER: Everyone will be policing their neighbors, I am sure.

COUNCILMAN DAVIS: We need to be prepared for that but I think on the other hand I'd rather put the imposition of those rules in now than run out of water and not have a community who can drink it. I'd rather have us drink it than wash our cars with it. I guess that is the bottom line.

SUPERVISOR FULLER: How about the... this is stretching it I know but it is something if we could get their attention, the restaurants that immediately when

you sit down, 4, 6, 8 however many people are at the table, they arrive with a glass of water for everyone. Maybe if they would ask if people want water to drink with their meal, they can request it because most of that water goes right back in those glasses.

MR. SECOR: We can...

SUPERVISOR FULLER: It's a stretch but... the other thing is if we are aware of businesses that may have a leak, if someone is reporting... for example, there's a faucet leaking in... where can they go with this complaint? Can you send someone to check them out?

MR. SECOR: Yes, you know, and we've had some people call and we can follow-up on that and if it's something that needs to be repaired, again I would turn that over to the Building Inspector and ask him to send someone out because there are building codes for that. I mean all new buildings are supposed to have water saver features in their water conserving devices. And, we can work with Kevin on that. And, as Mr. Alessi had requested, we are also working with Mr. Tobin, who does some of the prosecution over at the Town court to beef up our paper work so that if we get to the point we have to enforce this and bring someone before one of our Town justices, that our paper work is proper so we can follow through on it.

SUPERVISOR FULLER: I would hope we wouldn't have to bring anybody to the Town justice. I would think this community...

MR. SECOR: Never have in 20 years but you know...

SUPERVISOR FULLER: ...would be responsible enough.

MR. SECOR: Well, I guess, I bring this back then as far as the individual car washing, does the Board have a sense on that? I stayed away from that for obvious reasons.

COUNCILMAN MARCELLE: The only thing I would ask about that is, if we just substitute private car washing for people driving to Hoffman's or one on the 9W, are we saving any water? I mean, if we just substitute a guy getting his hose as opposed to plugging 4 quarters into the car wash on 9W, what do we save?

MR. SECOR: And, again, depending upon who you speak to you can get different statistics on that. The one car wash gentleman I spoke to said it took less water to wash a car going through a car wash than if you did it in your yard. But, the numbers that were being used seemed a bit much. I mean, if you wash your car... if you have a bucket with soapy water and you rinse your car off, wash it and rinse it off again, I would be amazed if you used 10 gallons of water. But, I'm getting those numbers together from the car wash, as far as, how many gallons per car they use and how much recycling saves in going through that.

COUNCILMAN MARCELLE: Plus, don't they have the ones where you can do it yourself? The individual stalls?

MR. SECOR: Sure.

COUNCILMAN DAVIS: Maybe a more reasonable approach would be to certainly encourage people to limit it to what they consider to be...

MR. SECOR: And, I think that's appropriate and if you look on our website, we do have some water saving issues up there and we are developing an additional list for tips for water savings. When the spring brochure goes out which is at the printer right now and the Highway Superintendent keeps reminding me I need to get the stuff to him but within a day or so that will be at the printers. There will be a letter from Town Supervisor and some follow-ups and tips for water saving. So, we have that on the list and I think that's an appropriate start.

COUNCILMAN DAVIS: I feel that's reasonable.

MR. SECOR: Again, by the first of June if the reservoir is where it is right now we are going to have to do some other measures anyway.

COUNCILMAN DAVIS: I consider that to be reasonable then. What are we doing about swimming pools?

SUPERVISOR FULLER: If we are asking the community to have their water trucked in to fill their pools in their yards, I think, we the Town, should do the same. I think we need to lead by example.

COUNCILMAN MARCELLE: Absolutely.

COUNCILMAN DAVIS: Sure.

SUPERVISOR FULLER: Town and school, I might add. I don't know how they'll get the truck in either building but they will figure it out.

MR. SECOR: Yes, I think I'd like to talk to the school because I'm not sure what kind of a hardship that will work on them because I think there is a certain amount of change over they have to have periodically to... for health concerns.

SUPERVISOR FULLER: So, they're able to drain the pool and refill it?

MR. SECOR: Well, again I would have to check with them on maintaining their chemical balances. I don't claim to understand all that but I know there is some criteria they have to meet and that goes back to this difficult word here, non-essential. I mean, again, I don't know.

COUNCILMAN DAVIS: Well, health issues are essential, I mean that is...

MR. SECOR: Yes, so I'd ask that we look into that first.

COUNCILMAN DAVIS: There is a difference there.

SUPERVISOR FULLER: Okay.

MR. SECOR: I would like to add the no irrigation systems to this list though. That was one thing that was mentioned, if we can add that. No new in-ground irrigation systems.

SUPERVISOR FULLER: And, they can't turn on the ones they have.

MR. SECOR: Right, because of the watering restrictions, if they are adopted. And, then I guess the other thing will be, we'll take the word non-essential out of that last paragraph and we will reword that so we don't need it.

TOWN ATTORNEY ALESSI: Why would you do that?

MR. SECOR: Again, if that's the sense of the Board.

COUNCILMAN PLUMMER: I agree with that, I would like to see it out.

COUNCILMAN DAVIS: I like it there.

COUNCILMAN PLUMMER: No, I would like to see it out, personally. That's my view. I think... unless you want to define it. I do think it is important that people understand what they can and cannot do.

MR. SECOR: I'm having trouble defining that.

COUNCILMAN PLUMMER: Your first 4 points are very clear.

COUNCILMAN MARCELLE: Well, I'm just saying, if you're having trouble defining it, I think the average person is trying to abide by these regulations is going to have trouble too. And, I don't think we should pass an ordinance that relies on subjective interpretation either on part of the citizenry or the government. So, I kind of agree with Councilman Plummer on that issue.

MR. SECOR: If you take...

SUPERVISOR FULLER: Why, do you think it should be in?

TOWN ATTORNEY ALESSI: Well, if the question is whether or not this provides sufficient notice legally -- let me put aside the question that Tom and Dan are raising whether as a practical matter it gives enough notice -- there is... this is legally sustainable. It is not a criminal ordinance, it's an information and the case law is pretty clear that as long as one could reasonably understand what the violation is and what is intended, the way it is worded, non-essential uses such as, it gives a category of species of types of uses. So, I don't have any concern with regard to the legality of this that it provides enough notice. Now, if as a policy matter, the Board says even though it can pass legal muster that we want to make sure that it's exactly stated what's prohibited and what's not, I mean, that's the policy judgment of the Board. I just want to make sure that the Board understands that legally it's a sufficient standard. But, again, if you want to put some examples in, fine with it. To me, the benefit of having non-essential uses is... let's put aside the legal issue, it's just that it allows people in the Town who in good faith want to conserve water, it adds an extra degree of description for those people whereas others may look at it and say okay, I can't do this but I can do everything else. And, that is, again, a policy issue in the end as to how you want to have that and certainly the Board... you know, this is something that's very prominent on the Board each meeting. You know, they can be brought to the Board as to what uses are being reported and the Board can add to the list as we go along. As Bruce mentioned, one of the reasons why this mechanism is being chosen is so that it can be a dynamic document. But, the bottom line is that's a policy decision for the Board but I wanted the Board to make sure that you understand that in my judgment this is a legally sufficient standard.

SUPERVISOR FULLER: Well, what is the pleasure of the Board?

COUNCILMAN DAVIS: I would like to see it there. I think it's something that would help rather than hinder and I think it would help people to understand where we are coming from. And, if it creates a problem, we can change it. And, this is early on in this process.

COUNCILMAN LENHARDT: As long as it's not defined as a specific activity, I would not expect any enforcement officer in the Town to enforce something that they deemed non-essential that isn't listed in this document or is added to this document as time goes on.

COUNCILMAN DAVIS: Right.

COUNCILMAN MARCELLE: Well, let me suggest this then, if I understand Councilman Lenhardt that it's not going to... he wouldn't encourage the enforcement of kind of a discretionary enforcement of non-essential uses but limited to the enumerated uses... maybe we should rephrase it that we encourage all citizens to avoid non-essential uses as opposed to actually writing it in an ordinance and then with the expectation that it not be enforced. If we are not actually going to enforce it just the enumerated items, then I would certainly be for encouraging it but not necessarily writing the ordinance as it is.

SUPERVISOR FULLER: I think we need to just leave it in, leave it as presented and you know, a future meeting I'm sure we will hear about it whether we should have had it in or not had it in or... It's a tough call; I can see where each are struggling with this. You know, what's essential for some is considered non-essential for others.

COUNCILMAN PLUMMER: Why don't we, I mean... this is going to be a work in progress, if it stays in... why don't we have an understanding that you're going to come here and tell us what... there may be a non-essential use that some people are having difficulty with and we can address it then. I just do think... I think it is important for people to know what they can and can't do. And, I think that this doesn't give them that. That's my point but, you know, if it stays... if we have situations where it is a gray area, then I think it's important that you bring it back to the Board and we make a judgment.

SUPERVISOR FULLER: And, I'm sure each of us will hear as well if people are having question about it. We just ask everyone just stop using the water.

COUNCILMAN LENHARDT: Effectively...as I read this, you have 5 enumerated items plus 2 additional items that you have described as non-essential. That's washing down of driveways and washing exteriors of buildings. If anyone is in violation of those items that are described in here, then you take it to the next step but if somebody sees something that we're not describing here as a non-essential use and it's brought to our attention, we determine that that should be added to the list, then after it is added to the list and enforcement goes on to that is sue.

COUNCILMAN DAVIS: In the mean time, hope for rain.

SUPERVISOR FULLER: Yes, that would be the easiest solution.

COUNCILMAN LENHARDT: Well, even with water in our reservoir at good times, we've always encouraged conservation and I still think that is essential the way the entire area is growing.

SUPERVISOR FULLER: Is there any input from the audience? Students?

MRS. RYMSKI: I am Ann Rymski as some of you already know. Yea, George, I'll try and keep it short, Lynn always tells me. One of the things I would like to see that happens because you are trying to encourage the public to be very much involved is some estimate of basically how much rain we would need by a certain point where we would .... I think that type of projection would be available by contacting SUNY up there at their atmosphere and science center... And, even to the point maybe Spotlight would run a graph. We need this much rain by a certain point... let's say the first of May... and our reservoirs should be coming up and kind of keeping track of it much like you keep track of when you are doing a fund raiser. Because by the first of May, a homeowner has to make a decision, are they going to do a vegetable garden? I think it is fair to our businesses that sell plants and shrubs to know whether maybe the homeowners are going to back off and maybe they need not to have heavy stocked water hungry plants. Now, there are a lot of alternatives and maybe that is something else that Cooperative Extension can do. Do some promotion of plantings that are not hungry, water hungry type animals. There are some nice ones that will bloom very nicely in dry conditions.

This is also a situation that probably is not going to go away for a very long time. Many, many parts of our country are experiencing water shortages and this is not something that's going to be resolved by buying water from Albany. Albany also operates on a reservoir and I haven't been up there lately but the one time I did go by, it was like "oh, my word" and we're still buying water from them. Are they hiding their head in the sand bucket somewhere? So, I think it's something that water conservation broadly is something that this part of the country is going to deal with much like the western part of our nation has. And, things like new buildings going in, there's a lot of new technology we can ask them to put in that

conserves water to the point if you put your hand under the faucet, the faucet turns on, you take your hand away, the faucet turns off. There is a lot of nice technology that's coming out there. I think we need to really start pushing it – front load washing machines.

It's just... you know... I hate to tell you, guys, but anyone who's put in one of those nice new toilets, they don't go in one flushing. It's 2 or 3 flushes, now you've used as much water as the old one. There are some newer technologies out there and that's what we need to get contractors start putting in. That's why we need homeowners to start putting in.

I'm a little concerned that when we tell the contractors you are not going to put a lawn in, what is going to happen to the soil erosion? Are we going to deal with those contracts in some manner of preventing soil erosion around new homes? Because you're letting good soil wash away, clogging up maybe storm drains or something and now you create another problem. So, when you say no lawns, you need to also instruct them as to what other type of material you're going to put down to hold that soil life. And, you know, again, we got to do it because wash away soil is never replaced and it does clog your storm drainage. No car washing, there are many areas where you can't wash your car and that's because that water drains into the estuaries. You can't do it in parks around San Francisco and now I guess the Chesapeake area – many areas there you can no longer wash a car. So, I can see that is coming. A lot of the water from our cars do drain into storm drains right down into the Hudson. So, I mean there are issues there that may be now is the time to begin to look at them.

But, I really would like to see if we could get some idea, some type of handle, on just where we are as far as water... at what point and then as I say, a nice little graph in the Spotlight might help it. I, for one, will forgo a vegetable garden this year. You know, I'm not gotta get up 6 o'clock in the morning to run my pails of water out there. But, I have some other ideas on how to save my other shrubbery. Good old cistern type water barrels, drip lines and stuff like that. But, I am not going to get into that project of building that if I think the water's going to be sufficient but if the water isn't going to be sufficient, if that graph bar is not coming up to a projection... oh yea, by the first of May, I better be finding my oaken barrel and my... all the things I am going to need to construct that. So, I would certainly ask... I hope all of you maybe had a chance to sit and read some of the suggestions that I sent in to Sheila and share. There are some ideas there that I think will be worth putting in long term and I recognize that we are always going to probably be looking for water. It's just the nature of the land these days. Thank you.

SUPERVISOR FULLER: Thank you, Ann. Okay. Yes, Mr. Samsel.

MR. SAMSEL: I heard a lot of concern tonight about lawns and I've lived in my residence for the last 52 years. The only thing I ever did for my lawn was to raise the lawn mower up as high as it would go in the hot weather. I had many brown lawns in September but low and behold they were green every spring.

SUPERVISOR FULLER: Okay. Have a motion to approve our resolution that we have before us this evening.

COUNCILMAN DAVIS: With the amendments and changes.

SUPERVISOR FULLER: Yes.

The following resolution was presented for adoption:

**March 2002 PROPOSED WATER USE RESTRICTIONS:**

Whereas on March 10, 1978, the Bethlehem Town Board adopted an ordinance entitled:

ORDINANCE REGULATING THE USE OF WATER FOR AREAS

Served by the Town of Bethlehem Water District and,

Whereas said Ordinance authorizes the Town Board to adopt rules and regulations limiting, restricting or prohibiting the use of the public water supply of the Town of Bethlehem when, in the opinion of the Town Board, such rules and regulations are in the best interest of public health, safety and welfare, and,

Whereas a severe drought coupled with the underproduction of the existing ground water infiltration well system in the Schermerhorn Island area of the Town caused the Town Board to pass a resolution on January 9, 2002 declaring a Water Supply Emergency in the Town, and,

Whereas, in the opinion of the town Board, sufficient cause exists for the Town Board to adopt the following Rules and Regulations limiting, restricting or prohibiting the use of the public water supply for areas served by the Bethlehem Water District.

NOW THEREFORE BE IT RESOLVED that, effective March 13, 2002, that the Town hereby limits the use of the public water supply as follows:

- 1) No watering of lawns from public water supply.
- 2) Hand held hoses may be used to hand water flowers and ornamental shrubs only between the hours of 6 am to 8am on an odd and even basis. (Properties with odd numbered address may water on odd numbered days and properties with even numbered addresses may water on even numbered days.)
- 3) No new lawns to be installed that require watering from the public water supply.
- 4) No new swimming pools unless water to fill the pool is trucked in from a private source.
- 5) No refilling of pools for spring start-up unless water is trucked in from private source.
- 6) No building permits will be issued for underground sprinkler systems.

AND BE IT FURTHER RESOLVED THAT,

That the Town prohibits the use of the public water supply for non-essential uses, such as but not limited to: No washing down of driveways or walk ways. (Use a broom or leaf blower); No washing of the exterior of buildings.

AND BE IT FURTHER RESOLVED THAT,

The Commissioner of Public Works is directed to prepare a proclamation of said limitations, restrictions or prohibitions and to publish same in accordance with there terms of the aforesaid Ordinance.

The foregoing resolution was presented for adoption by Mrs. Davis, seconded by Mr. Lenhardt and passed by the following vote:

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

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The next item approve the appointment of Counsel to the Board of Assessors, Charles Rosenstein. Supervisor Fuller said Mr. Rosenstein would be appointed and paid on a per claim basis. She noted he replaces Dan Santola who had been Counsel since 1977.

The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to approve the appointment of Charles Rosenstein, Latham, New York to the position of Counsel to the Board of Assessors with payment on a per claim basis. The motion was passed by the following vote:

AYES: Mrs. Fuller, Mr. Lenhardt, Mrs David, Mr. Plummer, Mr. Marcelle.  
NOES: None

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The next item was to approve the Town Board minutes of February 13 and February 27, 2002.

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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 Mrs. Davis and seconded by Mr. Lenhardt to approve the minutes of February 13, 2002 as submitted. The motion was passed by the following vote:

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

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The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the Town Board minutes of February 27, 2002 with corrections. 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 asked if anyone wished to address the Board. Mr. William Kelleher, resident, addressed the Board regarding the Clapper Road treatment plant and the use of Hudson River water. See statement following minutes.

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Supervisor Fuller asked if there was anyone else who wished to address the Board. Mr. Tim Gordon proceeded to inquire about an issue regarding code enforcement at a business in Town at 80 Waldenmaier Road, Walden Farms. He noted that he felt some of the commercial uses on the property are inappropriate. He mentioned there is a riding academy, a summer day camp for children, retail shop selling tack and horse equipment, in addition, to some apartments for rent and some offices for rent. He said there is a structure used for indoor riding arena and questions the appropriateness of this also. Mr. Gordon also mentioned the parking of cars along Waldenmaier Road and notes this creates a hazard.

Mr. Gordon noted this issue was brought to the Town's attention as far back as July 2000. He said this gives the appearance of impropriety. He noted Highway Department trucks have been seen on the property. A something other than a we'll look into attitude needs to be done, according to Mr. Gordon, for this serious situation. Supervisor Fuller asked Mr. Alessi is he is legally able to comment on this and noted it has been looked at at great length. Town Attorney Alessi offered some answers and some information. Mr. Alessi said the number of hours spent at Town Hall on this issue have been extraordinary. He said he has worked with Building Inspector no less than 20 to 40 hours or more on these issues. This is a matter that is a dispute between 2 neighbors, according to Mr. Alessi. He said, unfortunately, it is a bitter dispute between the neighbors. He said he was sure Mr. Gordon talked with the other side of the dispute due to the information provided regards one half but the complainant who fully has rights to complain and bring these to our attention and it is their job to look at them. He said he wanted to point out that it is something that has been examined in great detail.

Mr. Alessi said the Town has relied on itself for the analysis but have also called in the New York State Department of Agriculture and Markets. He said he thinks one of the things that is not apparent to lay people and really even legal people, lawyers, is the way New York Ag and Markets interprets its laws. He said they base their jurisdiction on agricultural districts. Mr. Alessi asked Mr. Gordon if he knows if the Reigning Cats and Dogs property was in an agricultural district. Mr. Gordon said they appeared before the necessary bodies in Town to get approval for what they have done. Mr. Alessi said the answer is that Reigning Cats and Dogs is not in an agricultural district. He said while he appreciates some of the analogies that he was trying to draw, the key distinction between the two is that one is in an ag and markets district – which can be seen on a map – and the Reigning Cats and Dogs are not. He said under State Law under ag and markets districts, they are entitled to great latitude in what they do. He said there is a definition

called farm operations and that term is not what you would think it means. He said it's extraordinarily broad and under this term, people in ag districts, as 80 Waldenmaier Road is, is entitled to that exemption. He said they have met all the criteria and noted they had asked Agriculture and Markets and they said they fit under that exemption and their operations are farm operations.

Mr. Alessi said there are some aspects of their operation that they looked at and had some questions about. He said they do not have information that there is an apartment being rented at that location. He asked Mr. Gordon if he had any information that the apartment is being rented. Mr. Gordon said it has been advertised. Mr. Alessi said it is advertised but the Town is only authorized to act where there is, in fact, a rental of property in violation of New York Ag and Markets and if there is information on any property, the Town will welcome receiving it. He said we do not have any information that this is occurring.

Mr. Alessi said with regard to this back and forth between the neighbors has gotten to a degree that he thinks is unfortunate for the Town of Bethlehem and it has caused a lot of resources to be used in the Town to address this. He said he wanted to answer the question clearly because Mr. Gordon said that this was something that had been on the back burner for a year and a half. He said he wanted to make sure that Mr. Gordon had the accurate information that not only has it been on the back burner but it has taken up more time of any issue in the Town, that he knows he has had to deal with, other than the water emergency supply. Mr. Alessi said they have taken a very hard look at this, continue to look at it and they know that with regard to this dispute, there are people who have an entirely different view with regard to the legality of some of those uses. Those people have rights, and have hired a private attorney as he understands that preceded him in his position. He said they hired a private attorney and looked at the matter. He said he did not see in the file and maybe it was not there, that the private attorney pursued by legal means a violation. Mr. Alessi said that is not for him to make judgment on whether that attorney should have or the party should have or should not have. He said he does know that they did not take any further legal action with that attorney on the uses and there are provisions under the law where if a neighbor thinks a use is occurring in violation of the law that they can bring an action to have that adjudicated.

Mr. Alessi said they will continue to look at this and the agricultural exemption is a relatively new law that Ag and Markets still hasn't even to date set out a lot of guidance but the Town has been working with them. He said he wanted to emphasize that when you have an ag and markets exemption, the local zoning law essentially is overridden for the areas of farm operation. He said the Town has no authority when it is a use that is a farm operation to enforce the Zoning Code. He said it is not just the Town of Bethlehem but every municipality in New York State.

Mr. Gordon said he is not an attorney but his reading of the State Agricultural law indicated that activities that were incidental to the breeding and training of horses would be allowed, however, recreational activities – and the law states examples such as a polo match – would not be allowed. He said he thinks there are recreational activities going on there. He agreed it is a dispute between the neighbors. He said his concern was that it was a dangerous hazard condition going on and he could not envision the Town Planning Board would approve any parking arrangement like this. He again mentioned the Town Highway Department trucks being on the property.

Town Attorney Alessi asked Mr. Gordon to elaborate on Town highway trucks. He asked if he was saying that Town Highway Department trucks were doing work on private property. He said he had not heard about that. Mr. Gordon said that was the report that he had been given for which photographs were obtained. Supervisor Fuller noted Mr. Sagendorph was in attendance. Mrs. Fuller noted this started a long time ago and Mr. Flanigan was the Building Inspector and as Mr. Alessi addressed the concerns, this was not something on the back burner. She said there are others in attendance that she thought might want to speak.

Question was raised about the rentals. Mr. Alessi said right now since he has been involved, since he has been Town Attorney, it has not been presented to him that there is somebody renting that apartment. He said the Ag and Markets has told them that if somebody rents that apartment, that is anyway affiliated with a farm operation, that they are entitled to rent that apartment. A gentleman noted he was a renter but has since moved out, however, it has been empty for 3 weeks. Mr. Alessi said he understands and he has heard information that in the past it has been rented. Mr. Alessi said the Town incurs liability if the renting is affiliated with the farm operation and the Town tries to prohibit something in advance.

Mr. Sagendorph reviewed the pictures of the trucks noting the Town line between the Town of Bethlehem and the Town of New Scotland ends right at this location. Mr. Sagendorph said Mr. Alessi summed it up best, this is a neighbor dispute and even Mr. Alessi and he have discussed this down to the picking up of yard waste debris in front of the house. He said simply put, one neighbor called about the other one to the Town of New Scotland who is servicing 80 Waldenmaier Road for the pickup of garbage. He said that had to cease because 80 Waldenmaier Road is in the Town of Bethlehem. In turn, Mr. Sagendorph said, he was notified that the neighbor was getting his yard waste picked up by the Town of Bethlehem, is wholly taxed in the Town of New Scotland. He said he called Mr. Alessi because there has been 12 years of prior practice he thought it was partially taxed in Bethlehem, found out it is only taxed in New Scotland and the Town of Bethlehem has ceased pick up of yard waste to the neighbor. So, he explained this is where this is at. Mr. Sagendorph said both the Town of Bethlehem and the Town of New Scotland have permission to turn around the trucks at 80 Waldenmaier Road. What is depicted in the picture, according to Mr. Sagendorph, is a snow plow in a snow storm or the clean up of a snow storm, pulling into that area to turn around, which is private property. He noted both Towns are using that area because it is a gravel and stone roadway to the barn and they cannot go onto paved areas as the neighbor across the street would have because they would destroy it in the spring time. It is being used with the owners permission at 80 Waldenmaier Road, Mr. Sagendorph said. He further noted if in the course of the winter by plowing it so the trucks can turn around there, repairs are made to fix the area where they used it to turn the vehicles around. He said no more, no less. Mr. Sagendorph said the only alternative is to drive to Delaware Turnpike and turn the trucks around at the highway intersection which is a horrendous thing. He said the owners are doing the Town a favor and as long as they allow the trucks to turn around, it will continue there, noting the Town of New Scotland is the same way.

Supervisor Fuller noted this neighbor battle started in the Town of New Scotland and then moved into the Town of Bethlehem. She said nothing has changed, the issue is still the same. She said this is a neighbor dispute, far more involved than the information that has been shared with Mr. Gordon. She said the Town of Bethlehem has been on top of this as best the Town can be. She said they do each have a right to their property as property owners. Mr. Gordon said he appreciated that but the fact that it is a neighbor dispute does not dismiss the fact that there is a hazard on the road there. He said the fact that Ag and Markets law can supercede Town zoning, he cannot understand for allowance of a hazardous condition. He said maybe it should not be just passed off as a neighbor's dispute. He thanked the Board.

Another audience member agreed with the dangerous situation but she said lessons are a part of boarding. She noted he cannot make a lot of money off of boarding. She said he needs to have some other income to go with it. She said the selling of tack and riding accessories goes along with the boarding because it is really expensive to order from a catalog. She said it is a lot cheaper to go through farms that can make money through the tack shop. She said the couple shops in the area are very overpriced and this shop saves them money. She said the neighbor dispute is disgusting, noting she boards a horse there. She said she spends a lot of money on her horse and she does not like to be accused of having her horse abused, neglected, she said her horse is perfectly fine. Supervisor Fuller asked her if she knew this was on tonight's meeting. She said she did not.

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Supervisor Fuller asked for a motion to adjourn.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to adjourn the regular Town Board meeting at 9:20 p.m. The motion was carried by the following vote:

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

Noes: None.

Absent: None.

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Town Clerk