

TOWN BOARD  
MAY 14, 1997

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

PRESENT: Sheila Fuller, Supervisor  
Freeman T. Putney, Councilman  
George Lenhardt, Councilman  
Doris M. Davis, Councilman  
Robert C. Johnson, Councilman  
Bernard Kaplowitz, Esq., Town Attorney  
Kathleen A. Newkirk, Town Clerk

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Approve  
appointment  
of Town  
Justice

Supervisor Fuller noted she was changing the order of the meeting just by a small motion. She said she wished to move the approve of the appointment of Stephen McQuide, Delmar, NY as Town Justice effective immediately until December 31, 1997. Supervisor Fuller said Mr. McQuide has had 30 years of practice in law and has tried and argued cases at all court levels in New York State. He was the prosecutor of traffic offenses in Bethlehem Town Court from 1976 through 1980, substitute prosecutor from 1990 to the present. Mr. McQuide noted he is eager to continue the work of Judge Peter Wenger and especially interested in the unique opportunity to guide the young people of the Town of Bethlehem. He was a very close friend of Peter Wenger and many others in attendance and Supervisor Fuller said this is something Peter always had in mind, the young people of our community.

The motion was made by Mr. Johnson and seconded by Mr. Lenhardt to approve the appointment of Stephen McQuide, Delmar, New York to the position of Town Justice to fulfill the remainder of the term of former Town Justice Peter Wenger. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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Mr. Stephen McQuide executed his oath of office at the meeting for the position of Town Justice, expiring on December 31, 1997.

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Recommend  
from Planner  
Planned  
Commercial  
District for  
CMI Senior  
Housing, SEQR  
resolution and  
referral to  
Planning Board  
for review

The next order of business was a recommendation from Town Planner, Jeffrey Lipnicky, regarding application for establishment of Planned Commercial District for CMI Senior Housing and Health Care Services, Inc. and consideration of the SEQR resolution and referral to Planning Board for review.

Supervisor Fuller noted this evening we have Mr. John Cahill and Mr. Joe Messina in attendance. She asked that they give a little presentation on the proposal. Mr. John Cahill, an attorney here in town, and his partner, Joe Messina, have been retained by CMI Senior Housing and Health Care, Inc. which is an organization out of Massachusetts in connection with their application for rezoning of a 6.7 acre parcel adjacent to the Town Library at 467 Delaware Avenue. He said the property is presently owned by Henry Klersy, Jr. and their clients have a contract of sale with Mr. Klersy which is contingent upon their client obtaining the necessary approvals from the Town for the rezoning and site plan approval from the Planning Board. He said it is the intention of their client to develop the property so as to house a 109 unit senior housing facility that will serve a frail elderly population providing a wide range of health and social and housing services. The property is presently zoned residence "A" district and they are seeking to have the zoning changed to a Planned Development District, Commercial so as to allow the required number of units that has been submitted for consideration. He said there would be a very low traffic density

situation on the site. He said they have commissioned Clough Harbor to do a traffic study in connection with the project which will be available for the Town upon completion. He said the only variance that will be requested is with respect to the number of parking spaces. He said it requires 1.5 per unit, because of the use requested, a variance of .75 per unit is being requested. He said they found in the other complexes and projects of this nature operated by their client, that approximately 15 percent of the residents have automobiles on site.

Mr. Cahill indicated there will be a bus on-site to provide transportation to the residents so they will not be impacting the present Town bus that is provided for senior citizens. He said they look forward to working with the Town and the senior citizen operation in Town to make the Town conducive for allowing its senior citizens to remain in the Town in their elderly years.

Mr. Cahill said they would be willing to answer any questions they may have.

Attorney Kaplowitz asked why they were requesting a Planned Commercial District. Mr. Flanigan said to get the unit down. They said they would go for commercial. The only reason they went for commercial and they would limit it to the type of use they have. Mr. Flanigan explained there are a lot of uses in the commercial district but they wanted to go for that section. Attorney Kaplowitz asked if it allowed more than a PRD. Mr. Flanigan said it does. Mr. Cahill said their clients are committed to any type of restriction that the Town Board seeks to impose with respect to prohibiting any further commercial use on the site.

Supervisor Fuller explained basically the Town Board sends the application to the Planning Board for review, referral and recommendation on the zoning change and it comes back to the Town Board. She said a public hearing is held at the Planning Board level and at Town Board. Mr. Lipnicky, Town Planner, explained the zone change is the Town Board level and then Building Project Approval at the Planning Board level. He explained the draft resolution also initiates the SEQR process and coordinate SEQR review with other involved agencies.

Supervisor Fuller said there will be an opportunity for 2 public hearings on this project -- 1 with the Town Board and 1 with the Planning Board. She thanked Mr. Cahill.

Attorney Kaplowitz asked if the Board should be adopting the resolution at the meeting. Mr. Lipnicky said yes.

Supervisor Fuller asked for a motion to adopt the resolution.

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TOWN BOARD  
TOWN OF BETHLEHEM  
SEQR RESOLUTION

CLASSIFICATION OF ACTION AND LEAD AGENCY DESIGNATION  
APPLICATION TO ESTABLISH A PLANNED COMMERCIAL DISTRICT  
CMI SENIOR HOUSING AND HEALTH CARE INC.

WHEREAS, the Town Board of the Town of Bethlehem has received an application, Environmental Assessment Form and related materials from CMI Senior Housing and Health Care Inc. to amend the Town Zoning Code and Map by the establishment of a Planned Commercial District on 6.71 acres of land located at 467 Delaware Avenue, Delmar, New York; and,

WHEREAS, the current zoning of the subject parcel is classified Residence A District, a district primarily designed for single family detached housing; and,

WHEREAS, the stated purpose of said zoning amendment is to allow the subsequent construction of a 70,913+/- sq.ft. assisted living facility for senior citizens containing 100 dwelling units and providing parking for 76+/- vehicles; and,

WHEREAS, Chapter 128, Article 5 of the Code of the Town of Bethlehem contains procedures for the establishment of a Planned Commercial District, and said procedures authorize the Town

Board to establish such a District upon referral to, and recommendation of, the Town Planning Board; and,

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

WHEREAS, the "Memorandum of Understanding between the Town of Bethlehem Town Board and Planning Board for Planned Development Districts" (MOU), adopted by the Town Board on February 27, 1991, sets forth procedures for incorporating the requirements of SEQR with the requirements of Chapter 128, Article 5 of the Code of the Town of Bethlehem for the establishment of Planned Commercial Districts; and,

WHEREAS, the SEQR regulations found at 6 NYCRR 617.6(a) require that as soon as an agency receives an application for approval of an action it shall determine: (1) whether the action is subject to SEQR; (2) whether the action involves a federal agency; (3) whether other agencies are involved; (4) the appropriate preliminary classification of the action; (5) whether a full or short environmental assessment form is necessary; and (6) whether the action is located in an agricultural district and subject to applicable provisions of the Agriculture and Markets Law; and,

WHEREAS, 6 NYCRR 617.4 establishes thresholds for the classification of Type I actions and the proposed project does not exceed these thresholds, and thus, is appropriately classified as an Unlisted action; and,

WHEREAS, 6 NYCRR 617.6(b)(2) & (3) establishes procedures for coordinated review of Unlisted actions where more than one agency is involved; and,

WHEREAS, the Town Board has received and considered a preliminary report from the Town Planning Department regarding SEQR classification and referral,

NOW, THEREFORE, BE IT RESOLVED,

that the Town Board of the Town of Bethlehem hereby determines that the application by CMI Housing and Health Care Inc. to establish a Planned Commercial District at 467 Delaware Avenue constitutes an action that is subject to SEQR; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby determines that the preliminary classification of the action shall be designated as "Unlisted"; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby determines that at minimum a Full Environmental Assessment Form is necessary to determine the significance of the action; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby determines that the proposed action is not located in an established agricultural district and therefore is not subject to the provisions of the Agricultural and Markets Law; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby determines that coordinated SEQR review of the action will be undertaken in accordance with 6 NYCRR Part 617.6 and the Memorandum of Understanding for Planned Development Districts approved by the Town Board on February 27, 1991; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby determines that a federal agency, specifically the U.S. Army Corps of Engineers, may have jurisdiction in this matter in as much as federal regulatory wetlands may be located on the site and impacted by development; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby determines that the other involved agencies with respect to this action may include: (1) the Albany County Health Department; (2) the New York State Department of Environmental Conservation; (3) the Planning Board of the Town of Bethlehem; (4) the Board of Appeals of the Town of Bethlehem; and (5) the New York State Department of Transportation; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby determines that interested agencies with respect to this proposal may include the Albany County Planning Board (General Municipal Law Section 239 review) and

- the Town Departments of Public Works, Senior Services and Building; and,
- BE IT FURTHER RESOLVED,  
that the Town Board hereby authorizes and directs the Town Planning Department to initiate coordinated review of the action by filing a copy of the Planned Residence District application, SEQR materials and appropriate notice with involved agencies, and notifying said agencies that a Lead Agency must be agreed upon within thirty (30) calendar days of the date of mailing said notice; and,
- BE IT FURTHER RESOLVED,  
that the Town Board hereby authorizes and directs the Town Planning Department to notify other involved and interested agencies of the proposed action and to make referral of the application to the Albany County Planning Board; and,
- BE IT FURTHER RESOLVED,  
that the Town Board as an involved agency with the broadest governmental powers for investigation of the environmental impacts of the proposed action, hereby declares its desire to assume Lead Agency status for the purpose of SEQR review; and,
- BE IT FURTHER RESOLVED,  
that having notified the involved agencies of the Town Board's desire to be Lead Agency, the Town Board hereby declares it shall be Lead Agency for SEQR review of the proposed action unless objection to such designation is received from any involved agency within the above specified thirty day (30) time period; and,
- BE IT FURTHER RESOLVED,  
that the Town Board hereby refers the application to the Town Planning Board for a recommendation on both a SEQR determination of significance and the zoning district amendment, said recommendation to be provided consistent with the procedures as outlined in the Memorandum of Understanding between the Bethlehem Town Board and Planning Board for Planned Development Districts.

On a motion made by Mrs. Davis, seconded by Mr. Johnson and a vote of 5 for, 0 against, 0 abstention, and 0 absent, this RESOLUTION was adopted on May 14, 1997.

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Supervisor Fuller said before we go to the next item on the agenda, she had resolutions for each of the LUMAC members who have so faithfully served for 8 years. She said the first one is for Jim Blendell and read the resolution. She also had resolutions for Sam Messina, Ted Putney, Douglas Hasbrouck and Martin Barr. Mr. Barr was not in attendance.

Lumac resolution to Lumac members as

Supervisor Fuller also presented a resolution to Jeffrey Lipnicky, Town Planner, and read the resolution. Mrs. Fuller said Martin Barr and Lisa Sabatino are the other resolutions to be presented.

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Supervisor Fuller said the next item was consideration of adoption of the LUMAC plan as a planning reference resource and is part 1.

Adopt Lumac plan as planning reference resource

COUNCILMAN PUTNEY: I am honored to move the adoption of Local Law No. 6 the LUMAC report as the Town's land use planning reference resource. I do so, not because I spent 8 years with it, but because that it is an excellent document which satisfies the Town's pressing need for good planning. I am hoping that in its implementation stage, which I trust is imminent, that the critics of the report will come to understand that the uses and densities proposed in each area will serve us all well and that when completed with good design... excuse me, when coupled with good design and development techniques the plan will enhance rather than diminish the value of our precious land.

SUPERVISOR FULLER: Thank you, Ted. I... you got off with your motion and then launched into it. I just had a couple things only because I am concerned about cleaning up the language, the land use

planning reference resource. We have, as far as the law, adopting the LUMAC -- are you following me on this -- the LUMAC draft master plan as the land use planning reference resource.

MR. PUTNEY: Uh-huh.

SUPERVISOR FULLER: Shouldn't this now be adopting the LUMAC draft plan as a land use reference resource? Some of these things really we had from counsel that we should be directing that this is not a master plan. It is only a guide. If you would look through such as under your findings, it's a memo from Jeff, May 9th, that has the local law attached to it.

MR. PUTNEY: Uh-huh.

SUPERVISOR FULLER: Everything goes through with master plan, shouldn't it be a report? The draft LUMAC plan, the draft LUMAC plan in 3, all of this under the findings. The LUMAC draft plan... Intent, land use planning reference resource... the Town of Bethlehem to serve... Just basically the changes in some of the way it is written, instead of the LUMAC draft master plan, it is the LUMAC draft plan. (mess up with microphones) Back, did anyone here anything that was going on here. It was back to changing some language, basically going with the draft LUMAC... LUMAC draft plan rather than draft master plan. Changing master to LUMAC land use reference resource plan. Under the intent, second sentence, a land use planning reference resource, first sentence, second line, to serve as a reference resource for future development...

MR. PUTNEY: No, principal reference resource, Sheila.

SUPERVISOR FULLER: On this, in looking at this...Ted, from Mr. Alessi, the LUMAC draft plan a useful reference resource, land use planning reference resource of the Town. Avoid referring to it as a master plan.

MR. PUTNEY: That is fine.

SUPERVISOR FULLER: And then, other question I would have as a result of all of this, the need for the SEQR finding statement on the draft master plan and its adoption, issue a SEQR finding statement, why is that on something if it is being adopted as a guide. I would think we could wait on the SEQR until after we have our task force and we come back. SEQR is more involved at that point. May I have a motion for the changes that I have just mentioned?

MR. PUTNEY: Would you please go over that intent again? My understanding that...

SUPERVISOR FULLER: Which are you asking me about... the intent?

MR. PUTNEY: The intent, the 3rd line. Serve as the principal resource reference. I am asking that that stay in the document.

SUPERVISOR FULLER: To serve as a principal...

MR. PUTNEY: No, as the principal resource reference... reference resource, excuse me.

SUPERVISOR FULLER: To serve as...

MR. PUTNEY: The principal reference resource.

SUPERVISOR FULLER: The principal is what I eliminated, to serve as a reference resource based only on our counsel's advice.

MR. PUTNEY: No, I believe that the change that I had suggested which included the principal reference resource had passed counsel's muster as being still all right as far as the legalities concerned and I asked that it remain in the resolution as originally distributed.

SUPERVISOR FULLER: Which resolution are you asking for now... the intent?

MR. PUTNEY: The intent, right, the 3rd line of the intent.

SUPERVISOR FULLER: And, the law itself adopt land use planning reference resource.

MR. PUTNEY: Yes, because that's okay because that is the way it was advertised in the paper. The title was the way it was advertised in the paper. So, I have no problem with that because we couldn't change both.

SUPERVISOR FULLER: If you can explain to me how it becomes the principal reference resource when it should be a until we are back and have some of these things resolved is basically a guide and I think trying to make it the principal is going to create us problems in the future.

MR. PUTNEY: As I said, I recognize that the attorney's original text said a principal reference resource and I ask that we change it to the principal reference resource and I understood that had passed muster of the attorney, strengthening the intent and... that would not give us any problems as far as the legality is concerned. So, I am asking that that remain in the resolution.

SUPERVISOR FULLER: I think part of the confusing is it's 2 attorneys. Are you 2 attorneys?

ATTORNEY KAPLOWITZ: If I can help clarify... I don't remember the original wording exactly but it did call this document a principal reference resource. At a meeting, Mr. Putney did ask whether we could change that. I said whether it is a principal or the principal or a reference document really don't make any difference. I think we are arguing about nothing, that is my opinion. It's a document, it's obviously by its nature being called a resource guide or reference, obviously other things will be considered. What we are passing the document that has no binding effect on top of everything else which gives it even less credence whether you call it principal document or not, frankly, I think is not very important. Other people in this room, psychologically they felt that it was important and I can see the difference but as a legal proposition I really don't think it makes any difference. You are obviously not going to use the Planning Board, the Town Board or anything else, only this document in probably any situation. You are going to listen to traffic studies and all the other things and make up your mind. So, I really don't think it makes any difference but we will have to vote on it.

MR. PUTNEY: Well, since it doesn't make any difference and this is the way it was printed, I am asking the resolution which I am moving includes the 3rd line of the intent statement as "the principal resource reference".

SUPERVISOR FULLER: Is there a 2nd to Mr. Putney's motion? Motion fails for lack of a second. I will now make a motion to have the changes, as I just explained... including the intent. This whole local law, I think to clear it up, so that we are consistent in what we are saying all the way through, is the motion to adopt... the motion to adopt the LUMAC plan as a land use planning reference resource for the Town of Bethlehem. Is there a second with the changes I made?

MR. JOHNSON: Second.

MR. LENHARDT: And, a question? Are you striking the word master plan from this document in that motion?

SUPERVISOR FULLER: Yes. Draft plan as a land use planning reference resource. Is there any further discussion? Any questions or comments? All those in favor.

MR. LENHARDT: Aye.  
MR. JOHNSON: Aye.  
MRS. DAVIS: Aye.  
MR. PUTNEY: Aye.

SUPERVISOR FULLER: Opposed? None. Motion carried. I know that the Board members each have some statements that they would like to make. If you will allow us a few minutes, we voted quicker than I anticipated. We are still dealing with the LUMAC plan that we just voted on as a Local Law.

COUNCILWOMAN DAVIS: I have attended every public meeting held since LUMAC presented its first draft at a joint meeting of the Town Board and the Planning Board at which time I served on the Planning Board. Subsequently, informational meetings for public input were held in Bethlehem, in Selkirk, in Glenmont, in Slingerlands and Delmar, all for residents convenience and again for their input. As many of you know, numerous meetings have been held here at Town Hall since then. I have carefully reviewed the transcripts, minutes of all meetings on the issue. I have read and reread every letter submitted to Supervisor Fuller, the Town Board or to me directly. I have met with and listened to residents who support the master plan wholeheartedly. I have met with and listened to the concerned land owners. I have visited or walked parcels of land throughout the town which owners felt had been incorrectly or unfairly designated for zone changes. Many of the large landowners I consider my friends and I believe many of them consider me their friend. And, I appreciate the time they have spent in attending meetings and sharing their comments and concerns. As recently as the April 9th public hearing, individuals used such phrases as the plan needs more work or its a good plan and it needs just a little more work or just a few slight adjustments need to be looked at. Many issues raised as recently as that April 9th hearing have been resolved and had been resolved before tonight. Just a few examples, the agriculture residence designation had been changed to agricultural business; timber harvesting an use of accessory to farming have been added as land uses in the agricultural business category; density has been significantly increased in various designations. Amendments in the original document now include recommendations to further explore the permitting of mining or extractive land uses. Many, many, many changes have occurred as a result of residents concerns. After all those hours spent on revisions, I know, that the LUMAC report still isn't perfect. I am confident, however, that the imperfections can and will be addressed and I will do my best, as I am sure many others will to ensure that zoning changes made during the implementation process are fair and reasonable. And, I know that the LUMAC members feel that way, as well.

This evening's agenda refers to our consideration of the LUMAC plan as a planning reference resource, as well as, reference to the appointment of a Task Force. It is my hope that this Task Force to be named by Supervisor Fuller will address and eliminate those perfections that we name. Having grown up in the Catskill Mountains region, an area containing much unzoned land, I have seen first hand the negative impact that development of unzoned land can have on adjacent land owners, as well as, the owner of that land. As we rapidly approach the 21st century, the unpredictability and the potential hazards of leaving land unzoned are far too risky for a town of our size and character. The planning reference resource would be adopted as an advisory document which we sorely need to eliminate such risks and problems. As proposed, the local law which we are considering tonight, would not change any existing zoning or other land use requirement in town. The document that is being adopted or with this document, zoning will not be different tomorrow than it is tonight. Zoning changes will require public hearings at which time residents will have the opportunity to express their opinions and their concerns. This document has too many positive recommendations, too many details, and changes which should not and cannot be ignored or compromised. It contains pages and pages of very valuable and necessary information. LUMAC's work is now done and I sincerely appreciate the long hours, the effort, the years of work on the part of LUMAC members and I wish to thank them for their extraordinary volunteer service to the town. I also wish to thank the many residents who have taken the time to share their views on this very significant issue. I voted in favor of adopting the planning reference resource but as I said, I will continue to do my best to see that the implementation of changes is reasonable and fair. And, thank you for listening and being as patient with all my comments.

COUNCILMAN JOHNSON: As a resident of this town who was born a few hundred yards up the road, I thank the dedicated LUMAC members and others who came before them, the rural landowners, and all who have contributed to the orderly planning of our town. Two paragraphs quoted from local law 6 filing, I think say how I feel about this. The LUMAC draft plan constitutes a useful reference resource for the rational and balanced approach to addressing future development of the town and conservation of its environmental resources. The LUMAC master plan and as a useful and appropriate resource for providing guidance for the orderly and attractive development of the town. It would be in the best interest of the town and its residents to adopt the substance of the plan. Said reference resource shall be an advisory document, the adoption of which will neither change any zoning requirements in the town nor require the implementation of any specific proposal in the reference resource. We have made great progress and now enter the phase where specific changes to zoning laws can be accomplished. I would hope that these would be done within our budget constraints and will be carefully overlooked and supervised by this town board. I thank everybody that worked so hard for this. Thank you very much.

COUNCILMAN LENHARDT: This is going to sound repetitive but I took the time to write it and I am going to read it and have it attached with the minutes but... During my 3 and one half years as a member of this board there has been no issues confronting our town more important and of greater concern to me than the LUMAC report and the impact its proposals could have on our residents. The Land Use Management Advisory Committee established by a predecessor board, March 8, 1989 has discharged its duties with our gratitude. LUMAC ceases to exist. Our present zoning codes are outdated and clearly in need of modernization. The LUMAC guide provides valuable information for the preparation of new zoning classifications and descriptions. I support the implementation of appropriate zoning classifications for presently unzoned property in our town. These implementations will help us defend against undesirable land uses, such as landfills, or toxic chemical producing industries, for example. But, our efforts in this regard must be fair and considerate of those immediately and directly impacted, the landowners, most of whom are agricultural business people. Our statement of intent in this local law makes it clear for future generations and town boards what the adoption of this reference document means. This resource shall be an advisory document only. Its adoption will neither change any zoning code requirement in the town nor require the implementation of any specific proposal in the reference resource. I must emphasize the mere acceptance of the LUMAC reference resource changes nothing in our town unless the town board implements recommended zoning changes. I can assure you that I will not support any zoning change unless, after public hearings and public debate on individual proposals, I am convinced that the change will be in the best interest of the town. Public hearings are absolutely required for any zoning change. Implementation of many of the recommendations in this guide will necessitate such public hearings and full debate and thus, cannot take place immediately nor without ample opportunity for all interested parties to be heard. A special committee will be formed to further study and address outstanding issues and anomalies with the LUMAC guide predominately in the areas identified as agricultural business and environmentally sensitive. Map number 51, entitled land use plan in the LUMAC reference resource is generalized and can lead someone to incorrectly conclude that a specific zone implementation will be imposed on their property. During the most recent public hearing, a number of residents expressed concern regarding the apparent zoning changes proposed for their parcels of property. I have visited a number of the parcels in question and agree with the landowners that the LUMAC map designation is inconsistent and improper. The new committee I referred to earlier will be charged with the task to review these very real and justified concerns and recommend to this board amendments to properly address them. I remind the Planning Department, the Planning Board, Zoning Board of Appeals and the Building Department that their actions must continue to be governed solely by our existing zoning codes and the interim development density act. I am advised by legal counsel that the adoption of this reference resource will not legally require implementation of any of its proposals. Without this assurance, my vote would be reversed.

With all of this said, I hope the residents are clear as to my position and that is why I vote yea to the adoption of Local Law No. 6.

SUPERVISOR FULLER: Thank you, George. Ted.

COUNCILMAN PUTNEY: I have made my statement during the motion, thank you.

SUPERVISOR FULLER: Knowing that everyone would want to speak this evening, I decided I would like to have a letter of intent filed with our minutes so that everyone understands where this town board is coming from with the adoption of this plan. We have to take a look at the LUMAC committee as providing us with a road map we needed to guide us in our decisions as we plan for Bethlehem's future. Every town resident owes them tremendous debt of gratitude. As we plan for our future, it is important for us to remember that the adoption of this report is not the end of this process, rather it is just the beginning. For now begins the important work of addressing and enacting the changes in town law that need to be made in order to define specifically, how and where our town will grow. The issues involved are complex. The decisions we will make will have an impact on people's lives for years to come. That is why it is the intent of this town board to guarantee to every resident of the Town of Bethlehem that as we begin the process of enacting the specific changes to Town Law, that are needed to move the Town into the 21st century. We will do so carefully and thoughtfully. Many of the recommendations of the Land Use Management Advisory Committee address clear cut issues and these we will quickly begin to implement. Other recommendations may not be so easy to decide, often not because of any disagreement about the overall policy goals of the town but rather because of the application of these goals as they relate to specific parcels of land. Whatever the issues may be, we want everyone to know that it is our intention to listen fairly to each and every concern and to the best of our abilities to decide each question on the merits not only as they affect our need to plan properly for the town's future but also as they impact the residents of our town. In the mean time, it is also our intention that whatever any inconsistencies have occurred or conflict exists between the recommendations contained in the report of the LUMAC committee, the plan that we adopted tonight and the current town zoning laws that until we can address these conflicts, the current zoning laws apply. This letter of intent is signed by every board member and it will be filed with the minutes as our official record. Thank you.

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Appointment  
of Task Force  
Chairman  
John Flanigan

The next item on the agenda was the appointment of the Task Force/Committee. Supervisor Fuller said it is the appointment of John Flanigan, Chairman; George Lenhardt and Ted Putney from the Town Board; and John Mead. Supervisor Fuller noted that Mr. Mead was asked to select someone from the Rural Landowners to serve on this Committee and he has selected Gene Minshell. She noted all have willingly accepted and appreciate their willingness to devote more time to this. The basic responsibility of the Task Force/Committee, according to Supervisor Fuller, will be to sit down and try and take a look at some of these areas where there are differences and try to get them resolved. She said the Committee will be making recommendations to the Town Board and the Town Board will then begin acting on some of this plan. She asks that the Task Force/Committee begin as soon as possible and that it be brought to completion before a very long time. She said she thinks there are areas that need to be addressed and this Committee has been selected to do so.

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Local Law /  
regarding  
regulation  
of Telecommu-  
nications  
Towers  
Public Hearing  
June 11, 1997

The next item was to consider a proposed Local Law regarding the Regulation of Telecommunications Towers in the Town of Bethlehem. Could set the public hearing for June 11, 1997 at 7:30 p.m. Attorney Kaplowitz indicated the information the Board Members received has a minor change from what was originally prepared and the Building Inspector, John Flanigan, had spoke with him regarding the change. The only difference is a clarification regarding the Board of Appeals being the Board that is going to entertain the applications for the

telecommunication towers regarding the issuance of variances and special permits. Mr. Kaplowitz said this is normal under the Code of the Town of Bethlehem. He noted site plan review has also been introduced into the process. Mr. Kaplowitz said rather than send the applicants to the Planning Board for site plan review, the Board of Appeals is indicated to handle both items. Mr. Kaplowitz noted the Federal Communications Act says you will have them, you cannot turn them away. He said you can with some degree of reasonableness regulate them. He said co-location is one consideration than can be done. The applicant will be required to provide complete information with regard to existing locations. Mr. Kaplowitz noted this is very similar to regulations being adopted by all of the municipalities in Albany County and Saratoga County.

Supervisor Fuller asked if the Board had any questions, indicating tonight the action needed is to set the public hearing.

The motion was made by Mr. Lenhardt and seconded by Mr. Johnson to set a public hearing for June 11, 1997 at 7:30 p.m. to consider a local law pertaining to the Regulation of Telecommunications Towers in the Town of Bethlehem. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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The next item was to consider a proposed Local Law regarding parking requirements for senior citizen housing. Could set public hearing for June 11, 1997 at 7:45 p.m.

Public Hearing  
June 11, 1997  
Parking  
Senior Citizen  
Housing

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to set a public hearing for June 11, 1997 at 7:45 p.m. pertaining to a proposed Local Law regarding parking requirements for senior citizen housing. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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The following item was a request from Town Clerk, Kathleen A. Newkirk, for adoption of resolution regarding approval of two (2) party representative positions as directed by the NYS Election Law for elections to be held May 1, 1997 through April 30, 1998.

Town Clerk  
resolution  
approval two  
party represen-  
tatives election  
to be held May  
1, 1997 through  
April 30, 1998

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

WHEREAS, the the Town Board of the Town of Bethlehem, hereby authorizes the appointment, as per direction of the Election Law, of two (2) Party Representatives (one from each major political party) to review all voting machines to be used in any election of the Town of Bethlehem and certifies thereto; and

WHEREAS, the Town Board of the Town of Bethlehem hereby authorizes compensation at \$10.00 per hour for said review and certification.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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The next item was a request from Town Clerk/Records Management Officer, Kathleen A. Newkirk, for approval of part time Records Clerk to work with the Town of Bethlehem Records Management Program. Supervisor Fuller noted this is at a rate of \$6.85 per hour.

The motion was made by Mr. Putney and seconded by Mr. Lenhardt to approve the appointment of part time Records Clerk to work with the Town of Bethlehem Records Management Program. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

Supervisor  
acknowledge  
receipt Mi-Hudson  
Cablevision

Supervisor Fuller next acknowledged receipt of the 1996 Annual Franchise Fee from Mid-Hudson Cablevision, Inc. in the amount of \$180.66.

Supervisor  
acknowledge  
receipt A-R  
Cable Service

Supervisor Fuller next acknowledged receipt of the First Quarter 1997 Franchise Fee from A-R Cable Services, Inc., in the amount of \$38,777.

Deputy  
Comptroller  
to award  
Janitorial  
Services

The following item was a recommendation from Richard Webster, Deputy Comptroller, for award of bid for Janitorial Services to Albany Associates Cleaning of Selkirk, NY, at the low bid price of \$3,075 per month. Supervisor Fuller noted there were 6 bids received for janitorial services and Albany Associates was the low bidder.

The motion was made by Mr. Johnson and seconded by Mr. Putney to approve the award of bid for Janitorial Services to Albany Associates Cleaning of Selkirk, NY at the low bid price of \$3,075. per month. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

Supervisor Fuller noted the contract period begins on June 1st and runs to February 28, 1998.

Parks and  
Recreation  
approval of  
seasonal  
personnel

The next item was a request from David Austin, Administrator, Parks & Recreation Department, for approval of seasonal personnel.

The motion was made by Mr. Lenhardt and seconded by Mr. Putney to approve the appointment of seasonal personnel as listed on the Memorandum from Administrator, David Austin, Parks & Recreation Department, dated May 14, 1997, at the titles and salaries listed. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

Parks and  
Recreation  
Award of bid  
regarding  
drainage of  
soccer fields

The next item was a recommendation from David Austin, Administrator, Parks & Recreation Department, for award of bid for regrading and drainage of existing soccer fields at the Elm Avenue Town Park to Jake Burnett Excavating, Inc., Albany, NY at the bid price of \$142,814. Supervisor Fuller said Jake Burnett Excavating is the low bidder and the amount is less than the total funds available for the project. She said this was approved back in January for the use of Capital Reserve Funds. Mr. Austin noted there was no petition filed with regard to the permissive referendum.

The motion was made by Mr. Putney and seconded by Mr. Johnson to approve the award of bid for Regrading and Drainage of Existing Soccer Fields at the Elm Avenue Town Park to Jake Burnett Excavating, Inc. at the bid price of \$142,814. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

- - -

Supervisor Fuller noted the soccer parents would be happy to see this is moving forward.

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The following item was a request from Administrator, David Austin, Parks & Recreation Department, for approval to go to bid for utility work at the new playing fields at the Elm Avenue Town Park. Could advertise May 28, 1997 and open bids on June 17, 1997 at 2:00 p.m.

Parks and  
recreation  
to go to bid  
Utility work  
at new fields

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

WHEREAS, the Town desires to advertise for bids for utility work at the new playing fields at the Elm Avenue Town Park, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 28th day of May, 1997 and that bids be received up to 2:00 p.m. on the 17th day of June, 1997 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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The next item was a recommendation from Michael Cirillo, Engineering Services Administrator, Department of Public Works, for award of bid for the Elm Avenue Bike Path to Casale Excavating, Inc., Wynantskill, NY, the low bidder.

Mike Cirillo  
award of bid  
bike path  
Elm Avenue

The motion was made by Mrs. Davis and seconded by Mr. Johnson to approve the award of bid for the Elm Avenue Bike Path to Casale Excavating, Inc., Wynantskill, NY at the low bid price of \$269,960. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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The next item was a request from Gregg Sagendorph, Highway Superintendent, for approval to purchase one (1) wood/brush chipper from State Contract. The cost of the new unit will be approximately \$16,100.

Request from  
Highway  
Superintendent  
approval to  
purchase weed/  
brush chipper  
from State  
contract

The motion was made by Mr. Johnson and seconded by Mr. Putney to approve the purchase of one (1) wood/brush chipper from State Contract as request by Highway Superintendent, Gregg Sagendorph at a cost of approximately \$16,100. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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The next item was a request from Judith Kehoe, Comptroller, for approval of transfer relating to the Elm Avenue Bike Path and Traffic Signal. Supervisor Fuller noted the Board has 2 resolutions. Basically, it is in accordance with agreements entered into with New York State for the funding of the bike path project and the traffic

Comptroller  
transfer relati  
to Elm Avenue  
Bike Path  
Traffic signal

signal. The Comptroller noted Board approval is necessary to transfer necessary monies to pay for the projected expenditures. As a reminder, the Comptroller noted that Federal reimbursements of 80 percent should be received monthly, upon receipt of the appropriate voucher from the Town. Total Federal funds should equal approximately \$295,000. The Board has previously granted the necessary approvals to enable the Town to accept these funds. Supervisor Fuller said what was being done is adopting 2 resolutions to accomplish the necessary paper work.

The following resolution was presented for adoption by Mr. Johnson and seconded by Mrs. Davis:

State funding of about \$55,250 is only paid quarterly, coincident with NYS bond issuances to fund the program. This means that the Town must pay the state share to the contractors initially, and then subsequently received reimbursement from the state. According, a request is made for approval from the Board to loan up to \$55,250 to the Bike Path Capital Project Fund. This loan would be non-interest bearing, since both the General Fund and the Bike Path Fund may be funded from the same taxable base. The loan would be repaid upon completion of the project, which is anticipated to be before the end of 1997.

The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

- - -

The second resolution was presented for adoption by Mr. Lenhardt and seconded by Mr. Johnson:

The Town is required to contribute five (5) percent of total project costs, equal to approximately \$18,500. Therefore, it is requested that approval of transfer of \$18,500 from the General Fund to the Bike Path Capital Project Fund. This will require approval of a budget modification, degreasing Contingency (Code A-1990.4) and increasing Transfers to Other Funds (Code A-9901.9).

The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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Approval Town  
Board minutes  
April 30, 1997

The next item was approval of the Town Board minutes of April 30, 1997 as submitted.

The motion was made by Mr. Putney and seconded by Mrs. Davis to approve the Town Board minutes of April 30, 1997 as submitted. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.  
Noes: None.

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The Supervisor noted Stephen McQuide was moved to the head of the agenda. He was sworn in as Town Justice to replace Peter Wenger.

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Supervisor Fuller asked if anyone wished to address the Board. There were none.

MR. HARDER: This open comments?

SUPERVISOR FULLER: Sure.

MR. HARDER: I have 3 questions for the Board tonight. In the spirit of open and honest government, I would like to know when a public hearing will be scheduled to discuss with the residents of this Town the recent dredging of the Hudson River by the Army Corps of Engineers. I would like to know why it was necessary, who is going to pay for it, and why no public notice was posted as requested by the Army Corps of Engineers. That is my first question.

Discussion  
Mr. Harder  
questions  
dredging of  
Hudson Rive  
by Army Cor  
of Engineer

SUPERVISOR FULLER: I need the mike to answer. Maybe you and I need to stand there together. Let me begin by saying that any emergency that has developed in the Town and over the years there has been many such as we had Rupert Road, I believe was washed out 2 years ago, we did not have a public hearing nor did we have a posting. It is an emergency and it has to be dealt with. We had very severe floods in January of 1996 which did probably close to \$200,000 on our Henry Hudson Park, we did not do a public hearing or post a notice, it was an emergency and needed to be dealt with. Dredging is no different than any of that it was all related to storm damage and it was taken care of. The Army Corps of Engineers did send a notice which was posted in the Town Hall on the bulletin board and that is the notice. It is up to the Army Corps it is not up to the Town Board. How will be paid for? I have written a letter to FEMA asking for funds, just as we did for the storm damage at the Henry Hudson Park in January. That was question 1, did I answer all of it?

MR. HARDER: Is it your intent to file an emergency applications every single year in light of the fact that sediment, movement and deposit is a naturally occurring event?

SUPERVISOR FULLER: No, I wouldn't view that as an emergency and no, we have not determined that that is something that is going to happen every year. This really was discovered in November when we began to do a pumping test and the silt was there. We were unable to get into the river. If you remember, we did have some ice in the river and then we were limited to the spawning season for the fish which was we had to be in and out by April 1st. That is what created the emergency and that is the only reason for the emergency. This is not routine maintenance.

MR. HARDER: Is it not true that the misleading and fraudulent permit application filed with the Army Corps of Engineers was actually to cover up the fact that the new water infiltration system is failing miserably and costing us millions of dollars?

SUPERVISOR FULLER: Would you like to repeat those two words that really stuck out, Mr. Harder? Would you repeat the question for me?

MR. HARDER: Is it not true that the misleading and fraudulent permit application filed with the Army Corps of Engineers was, in fact, to cover up the fact that the new water infiltration system is failing miserably and costing us millions of dollars?

SUPERVISOR FULLER: No. And, I guess I am a little confused by whose decision was it that it's failing. Who said that it is failing? Certainly the Town hasn't, I haven't, this was not a fraudulent permit, are you saying?

MR. HARDER: Application.

SUPERVISOR FULLER: DEC didn't view it as such either. I am sorry if that is your opinion but certainly it's not the opinion here.

MR. HARDER: Thank you.

SUPERVISOR FULLER: Any other questions? George Harder and I am sorry I forgot to ask the names. And, you are, Susan Burns.

MRS. BURNS: Yes. I am Susan Burns and I have a question, follow-up, you didn't answer George's question -- are there plans for the public hearing, a date that is set?

Mrs. Burns  
questioning  
if there will  
be a public  
hearing on  
dredging

SUPERVISOR FULLER: No, there is not.

MRS. BURNS: Is there an intention of the Board or you to set one?

SUPERVISOR FULLER: Is there an intention of the Board for what?

MRS. BURNS: To set a date for a public hearing?

SUPERVISOR FULLER: What would be the purpose of the public hearing? I guess I am confused.

MRS. BURNS: For the Town residents who have concerns and questions to come and ask questions.

SUPERVISOR FULLER: No, we didn't hold a public hearing for the Henry Hudson Park or when the roads were washed out. Why would we do it for something like this?

ATTORNEY KAPLOWITZ: There is no requirement in the law that there be a public hearing. We hold public hearings all the time because the law says you shall have a public hearing. There is no requirement here that there be any kind of a public hearing.

MRS. BURNS: I understand there will be a requirement if the Army Corps of Engineers forces you to do that.

SUPERVISOR FULLER: The Army Corps... I believe the Army Corps will be the one hosting the public hearing.

MRS. BURNS: Correct.

SUPERVISOR FULLER: If they wish to, but Susan I can assure you that there is a lot of public hearings and there is public comment at these meetings every time. So, people are free to speak at any meeting, which they always have been.

MRS. BURNS: Sorry, my question is just if there is one that was set, a date set, and if there is intention to set one.

SUPERVISOR FULLER: No.

MRS. BURNS: Thank you.

SUPERVISOR FULLER: Thank you, Susan.

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Supervisor Fuller asked if there was anyone else who wished to address the Board. There were none. Supervisor Fuller thanked everyone for attending.

The motion was made by Mr. Lenhardt and seconded by Mr. Johnson to adjourn the regular Town Board meeting at 8:28 p.m. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Putney, Mr. Lenhardt, Mrs. Davis,  
Mr. Johnson.

Noes: None.

Motion made  
to adjourn  
meeting

*Kathleen G. Newkirk*  
Town Clerk

SHEILA FULLER  
SUPERVISOR

# TOWN OF BETHLEHEM

ALBANY COUNTY - NEW YORK  
445 DELAWARE AVENUE  
DELMAR, NEW YORK 12054  
(518) 438-4955



May 14, 1997

## TOWN OF BETHLEHEM LETTER OF INTENT

### AN OPEN LETTER TO THE RESIDENTS OF THE TOWN OF BETHLEHEM:

Tonight, the Town Board unanimously accepted the final report of the Land Use Management Advisory Committee.

We could not let this historic moment pass, though, without acknowledging the extraordinary job done by the members of the Advisory Committee and thanking them for their effort. They have invested eight years of their lives and thousands of hours of their time in order to prepare this report. During this period they have studied thoroughly the question of land use management, thoughtfully examined the many complex issues involved, invited input from every resident and group in town, listened to our needs and concerns, and dealt openly and honestly with the many issues they had to address.

In doing so, they have provided us with a road map we needed to guide us in our decisions as we plan for Bethlehem's future. Every Town resident owes them a tremendous debt of gratitude.

As we plan for Bethlehem's future, though, it is important for us to remember that the adoption of this report is not the end of the process. Rather, it is just the beginning. For now begins the important work of addressing, and enacting, the changes in Town law that need to be made in order to define specifically how, and where, the Town will grow.

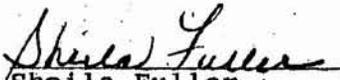
The issues involved are complex. And the decisions we make will have an impact on people's lives for years to come. That is why it is the intent of this Town Board to guarantee to every resident of the Town of Bethlehem that as we begin the process of enacting the specific changes to Town law that are needed to move the Town of Bethlehem into the 21st Century, we will do so carefully and thoughtfully.

Many of the recommendations of the Land Use Management Advisory Committee address clear cut issues, and these we will quickly begin to implement. Other recommendations may not be so easy to decide, often not because of any disagreement about the overall policy goals of the Town, but rather, because of the application of those goals as they relate to specific parcels of land.

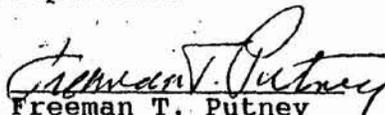
Whatever the issues may be, we want everyone to know that it is our intention to listen fairly to each and every concern and, to the best of our abilities, to decide each question on the merits, not only as they affect our need to plan properly for the Town's future, but also as they impact the residents of the Town.

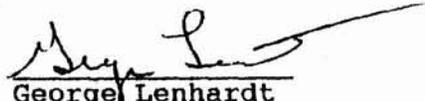
In the meantime, it is also our intention that wherever any inconsistencies or conflicts exist between the recommendations contained in the report of the Land Use Management Advisory Committee that we adopted tonight and the current Town zoning laws that, until we can address these conflicts, the current zoning laws apply.

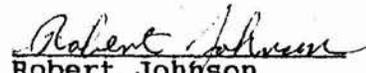
Sincerely,

  
Sheila Fuller  
Supervisor

  
Doris Davis  
Councilwoman

  
Freeman T. Putney  
Councilman

  
George Lenhardt  
Councilman

  
Robert Johnson  
Councilman