

TOWN BOARD
May 14, 2003

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
Catherine T. Picarazzi, Deputy Town Clerk
Robert J. Alessi, Esq., Town Attorney

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

The Supervisor introduced Dan Lewis who visited Town Hall and has been meeting in room 101, noticing that there was a copy of the Constitution but there was not a copy of the Bill of Rights. Mr. Lewis said he is a Member of Bethlehem Neighbors for Peace and they wanted to present the gift. He mentioned they are a group of over 300 members. Supervisor Fuller and the Town Board Members thanked Mr. Lewis.

The first item on the agenda was a request from the Supervisor to appoint a Town Justice due to the resignation of Theresa Egan.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve the appointment of Paul F. Dwyer, Esq., Slingerlands, NY to the position of Town Justice effective May 14, 2003 at an annual salary of \$31,911. The motion was passed by the following vote:

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

The next item was a request from Town Planner, Jeffrey Lipnicky, to set a public hearing for a Local Law and SEQR Resolution for rural districts not zoned, with uses permitted by Right. Supervisor Fuller noted the public hearing would have to be set for June 11, 2003 at 7:30 p.m., noting the next meeting is too close for publication of the notice of public hearing. She said at the last meeting, April 23, 2003, Councilman Davis made a motion that the Town Planner, Mr. Lipnicky, and the Building Inspector, Mr. Shea, take action to amend the zoning code to allow single family as of right or as a permitted residential use in the Rural Not Zoned district of the Town. She said the referral should

be made to the Albany County Planning Board for review under General Municipal Law section 239 no later than May 5, 2003. She also stated this is all a result of the Waste Management decision in the court. She said the Board has requested that the updating of the Zoning Code be begun.

The motion was made by Mrs. Davis and seconded by Mr. Marcelle to set a public hearing for June 11, 2003 at 7:30 pm to consider a proposed local law amending Section 128-23 of the Town Code of the Town of Bethlehem, Zoning, dealing with permitted uses in rural districts not zoned and uses permitted as Special Exception by the Board of Appeals.

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

Noes: None.

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The following item was a request from Police Chief, Louis Corsi, for approval of transfer from insurance recovery account to police collision repair account for repair of damaged police vehicle.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to transfer \$2119.86 from insurance recovery account to police 43-15, collision repair account, for repair of damages to police vehicle. 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 Police Chief, Louis Corsi, for acceptance of resignation of part-time clerk, Briana Sagendorph, effective May 8, 2003.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to accept the resignation of part-time clerk, Briana Sagendorph, effective May 8, 2003. The motion was passed by the following vote:

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

Noes: None.

The following item was a request from Police Chief, Louis Corsi, for approval of appointment of Brooke Rifenburg to the part-time position of clerk at the rate of \$11.80 per hour with hours not to exceed 17.5 per week, effective May 19, 2003.

The motion was made by Mr. Marcelle and seconded by Mr. Plummer to approve the appointment of Brooke Rifenburg, Niskayuna, New York to the part-time position of clerk at the rate of \$11.80 per hour with hours not to exceed 17.5 per week, effective May 19, 2003. The motion was passed by the following vote:

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

Noes: None.

The following item was a recommendation from Comptroller, Judith Kehoe, for the reappointment of Nationwide Retirement Solutions as the deferred compensation administrator.

Deferred Compensation Committee Resolution
Town of Bethlehem

WHEREAS, a Request for Proposal (RFP) was offered and proposals were received for furnishing a Deferred Compensation Plan for employees of the Town of Bethlehem, and WHEREAS, it is the Committee's recommendation that the Town of Bethlehem continue to retain the services of Nationwide Retirement Solutions as its Plan Administrator, and Nationwide Trust Company as its Trustee, and

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

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

WHEREAS, effective January 1, 2003, the Board amended the Model Plan to adopt provisions relating to regulations pertaining to Section 457 and Section 401(a)(9) of the internal Revenue Code, technical amendments to the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") as they apply to the Model Plan and to adopt modifications that update certain administrative provisions;

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

WHEREAS, upon due deliberation, The Town of Bethlehem has concluded that it is prudent and appropriate to amend the Deferred Compensation Plan for Employees of Town of Bethlehem by adopting the amended and restated Model Plan.

NOW, THEREFORE, BE IT

RESOLVED, that The Town of Bethlehem hereby amends the Deferred Compensation Plan for Employees of The Town of Bethlehem effective May 14, 2003 by adopting the amended and restated Model Plan effective January 1, 2003, and recommends Nationwide Retirement Solutions as Plan Administrator and Nationwide Trust Company as Trustee. in the form attached hereto as Exhibit A.

IN WITNESS WHEREOF, the undersigned have executed this Resolution in Albany, New York this May 14, 2003 and directed that it be filed as appropriate.

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

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

Noes: None.

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Councilman Davis commented that Comptroller Kehoe's Memorandum is very clear and certainly would justify going with this particular group. She said she hoped as many employees as possible can participate. In her opinion it is the best thing for them to do if at all possible. Councilman Davis thanked Comptroller Kehoe.

The next item was a recommendation from Comptroller, Judith Kehoe, to adopt amendments to the deferred compensation model plan agreement, in accordance with IRS code 457 technical amendments.

The following resolution was presented for adoption:

DEFERRED COMPENSATION COMMITTEE RESOLUTION
TO AMEND
AND RESTATE THE MODEL PLAN

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

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

WHEREAS, effective January 1, 2003, the Board amended the Model Plan to adopt provisions relating to regulations pertaining to Section 457 and Section 401 (a)(9) of the Internal Revenue Code ("EGTRRA"), technical amendments to the Economic Growth and Tax Relief Reconciliation Act of 2001 as they apply to the Model Plan and to adopt modifications that update certain administrative provisions;

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

WHEREAS, upon due deliberation, The Town of Bethlehem has concluded that it is prudent and appropriate to amend the Deferred Compensation Plan for Employees of the Town of Bethlehem by adopting the amended and restated Model Plan;

NOW, THEREFORE, BE IT, RESOLVED, that the Town of Bethlehem hereby amends the Deferred Compensation Plan for Employees of the Town of Bethlehem effective may 14, 2003 by adopting the amended and restated Model Plan effective

January 1, 2003, in the form attached hereto as Exhibit A.

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

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

Noes: None.

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The following agenda item was to acknowledge receipt of the 2002 Financial Audit Report from Marvin and Company, Certified Public Accountants and Consultants, Latham, NY.

The next item was a request from Administrator, Nan Lanahan, 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 requested by Nan Lanahan, Administrator, Parks and Recreation Department, as listed in her Memorandum dated May 14, 2003 at the titles and salaries listed. The motion was passed by the following vote:

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

Noes: None.

The next item was a request from Nan Lanahan, Administrator, Parks and Recreation Department, for authorization of the Supervisor to sign the Vending Machine agreement between the Town and the Bethlehem Tomboys Softball League, located at the Line Drive snack bar.

The motion was made by Mr. Marcelle and Mr. Lenhardt to authorize the Supervisor to sign the vending Machine agreement between the Town and the Bethlehem Tomboys Softball League, located at the Line Drive snack bar. The motion was passed by the following vote:

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

Noes: None.

The following item was a request from Gregg Sagendorph, Highway Superintendent, for approval to dispose of a 1996 Ford Suburban Van, Vehicle No. 801, Senior Services Department, at the Northway Auto Exchange, Inc., Clifton Park, NY.

Motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the request by Gregg Sagendorph, Highway Superintendent, to dispose of a 1996 Ford Suburban

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

Van, Vehicle No. 801, Senior Services Department, at the Northway Auto Exchange, Inc., Clifton Park, NY. The motion was passed by the following vote:

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

The next item on the agenda was a request by Gregg Sagendorph, Highway Superintendent, and Louis Corsi, Chief of Police, for approval to go to bid for the purchase of radio equipment for various Town departments.

Motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve going to bid for radio equipment for various Town departments as requested by Gregg Sagendorph, Highway Superintendent, and Louis Corsi, Chief of Police. The motion was passed by the following vote:

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

The following item was a request from Building Inspector, Kevin Shea, for approval of a construction trailer at 467 Delaware Avenue as requested by Klersy Building Corporation.

Motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve a construction trailer at 467 Delaware Avenue as requested by Klersy Building Corporation and requested by Building Inspector, Kevin Shea. The motion was passed by the following vote:

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

The following item was a request from Building Inspector, Kevin Shea, for approval of a dumping permit for Shanks Place as requested by Klersy Building Corp.

Motion was made by Mrs. Davis and seconded by Mr. Lenhardt for approval of a dumping permit at Shanks Place as requested by Klersy Building Corporation. The motion was passed by the following vote:

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

The next agenda item was a request from Building Inspector, Kevin Shea, for approval of construction trailer at the corner of Elsmere Avenue and Dalton Court (Walden Farms) as requested by The Michaels Group, Malta, New York.

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

Motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve a construction trailer at the corner of Elsmere Avenue and Dalton Court (Walden Farms) as requested by The Michaels Group, Malta, New York. The motion was passed by the following vote:

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

Noes: None.

The next item was a request from the Building Inspector, Kevin Shea, for approval of a request for an addition at 29 Eton Drive, Slingerlands (Eastmont PRD).

The motion was made by Mr. Plummer and seconded by Mrs. Davis to grant the request for approval of an addition at 29 Eton Drive, Slingerlands (Eastmont PRD) requested by Carol L. Bluestein, Slingerlands. The motion was passed by the following vote:

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

Noes: None.

The next item was a discussion by the Board regarding fluoride. Supervisor Fuller noted Councilman Marcelle brought the issue of fluoride up at the last Town Board meeting, asking for a public meeting and the Board chose to wait until she returned. She said this is back on the agenda for discussion. She stated Dr. Hart was in attendance. She asked if anyone in the audience who wished to speak about the fluoride issue, noting this was not a public hearing.

Mrs. Capone said she is against this because it can be a dangerous situation.

Councilman Plummer noted he read the break down on this by Mr. Secor, Commissioner of Public Works. It was his understanding it was preliminary but asked if this figure of \$300,000 is about the same as Guilderland's cost. Councilman Plummer questioned if this would be the installation of the system and then to operate it on an annual basis.

Mr. Secor said this was and noted he went to Guilderland because Guilderland buys water from Albany through an interconnect. They have wells and have their own water purification plant. He said their set-up is very similar to ours. He continued based on the discussions of what Guilderland had to go through to meet the Albany County Health Department and New York State Health Department standards, was how the cost estimate was figured. He said you would have to put an injection system in at the Water Plant, each of the wells, and each of the interconnections with Albany to get a uniform dosage rate. Then along with the dosing equipment; you have to have monitoring equipment. He said everything has to be flow paced so that you are adding the right amount of chemical as you are pumping at whatever rate you are pumping at. He went on to say that is kind of a preliminary look but it gives the Board a base idea of what is going on.

Councilman Marcelle noted that allocated over 10 years with the operating cost is about \$57,000 a year. He asked over each year, if this was allocated over 10 years what it would mean to the average Town residents on their water bill – how much of an increase.

Mr. Secor answered, it is 5 cents a thousand gallons and the base price now is \$2.00 per thousand so that would be 2 ½ percent.

Councilman Plummer said he based this on 3 ½ million gallons a day.

Mr. Secor said that is the current usage in the residential area.

Mr. Plummer said there was a report done where this is talking about the future and needs to get up to 10 million gallons a day and spending millions of dollars to upgrade the system at Vly Creek and then to possibly either contract with the City of Albany or look at other alternatives. He asked why the cost would stop here after the 10-year period.

Mr. Secor answered they would not. He said he tried to give the Board a starting point. He said, obviously, the more water the cost increases. He said you could see from this, the chemicals are about \$8,000 a year out of a \$57,000 expense. He continued if the chemicals went up by 10 or 20 percent, it is not of the total cost; the labor costs are going to go up every year with inflation. He said this is kind of a starting point and wrote the equipment off over 10 years because there is some useful life to it, some parts could probably last longer. He stated, there could be other things such as changes in State or Federal regulations and those costs could go up.

Councilman Plummer said he understood that from the last meeting, Councilman Marcelle was talking about having a hearing where people could come in and express their views. He stated he would be supportive of a hearing but he does not want to mislead anyone. He felt \$300,000 is a lot of money and there is a multi-billion dollar deficit at the State level, and our county is in deficit. He stated our Town is steady fortunately, but we have had to increase the costs and contributions to the pension system. He felt that is an awful lot of money to ask the taxpayers to pony up. He said from everything he knows, people have the ability to go out and get fluoride if they would like it. He stated he does not want to mislead anyone. He said he is willing to go along with the hearing but this is just a lot of money.

Councilman Marcelle asked how much was projected if the Town was to buy Albany water?

Mr. Secor answered that was an accumulative expense account. He said that added in debt service costs, operation and maintenance – all of the costs that were anticipated plus the cost of buying water and accumulated it year to year.

Councilman Marcelle wanted to know what that cost was over a 10 year period.

Mr. Secor replied he did not remember.

Mr. Marcelle asked if it was multi-millions.

Mr. Secor answered yes, no question about it.

Supervisor Fuller turned it back to Councilman Marcelle with regard to what he wished to do.

Mr. Marcelle said Dr. Hart was in attendance that he had called and wished to address the Board. He said he also wanted to thank the Spotlight for editorializing about the issue. He stated the reason he brought it up, noting he thought it was significant, was that his wife, who is a dentist, worked in the Albany County Health Clinic and while he thought Mr. Plummer might be correct, many of the residents in this Town have the means currently for fluoride. He also stated, many people in the County do not including have the means including some people in this Town. He said his wife saw many children coming in with their teeth rotted out because of the lack of fluoride. He stated Dr. Hart has some research on this. He also stated it was a fundamental health issue and he thinks for 5 cents a gallon was worth it. He said he suspects that it would be a more cost effective way to provide an indispensable health benefit to the people of the Town in accordance, he believes, with the vast majority of the municipalities in the State, if not all of them. Mr. Marcelle asked Dr. Hart to speak.

Dr. Hart said he thinks it boils down to the reason he was here to speak is in the 31 years as a dentist, he has always been answering questions of any Town Board Members he has known, why are we not fluoridating the water. He stated he was one of the people who spoke back in 1980 when a whole different group, Mr. Corrigan as Supervisor, looked at it when the State was offering the fundamental set-up and training for this to set it in motion. He said it did not happen for a lot of reasons. He said a lot of individuals have a real concern or fear about adding one more chemical to the water supply. He stated he does not look at it that way at all. Dr. Hart said he thinks it is one more element that we are not lucky enough to have in our water supply. He said 5 percent of the people in this country are drinking water that has at least as much fluoride naturally as is being discussed to be put into the water. He continued there are communities that have as much as 12 times what is being discussed and recommended fluoride to be added to the water supply. He said the World Health Organization has noted recommended amounts, every national, international, every state, every county and every authority say this should be done. He stated almost two-thirds, 65+ percent of the country now has – including the 5 percent who already have it naturally – another 60+ percent are drinking water that has been supplemented with 1 part per million – actually it ranges from .7 to 1.2 parts per million – of fluoridine put into it or naturally put into it. He noted this is in public water supplies.

Dr. Hart continued on they advised people who are on natural wells to have the water tested to check the natural fluoride content. He said generally it is in the southern sector of the Town and into the next Town in Ravena.

Dr. Hart said the whole matter can be one that can provoke a good bit of frustration because he has been trained, made himself a student of it, and has manuals on it to be able to answer a technical question on it. He said he did not know how detailed the Board or the audience would want to be on this. He stated he has never done research on fluoridated water supplies. He said the closest he has come is the subject of a research while he was in dental school. He thanked the Board for allowing him to speak. Fluoride can cause illness and death, according to Dr. Hart, but in huge doses. He said there is more danger if there was a chlorine spill into the water supply.

Dr. Hart said it is not a life or death thing but it will help you keep your teeth. He said everyone is getting fluoride. He mentioned the situation of Albany no putting fluoride in their water either.

Mrs. Capone, resident, said her daughter has lived in Bethlehem all of her life and has had 2 cavities. She said her son has 1 cavity and looked to a university out of the country and got her information there. She said she supports whatever Mr. Secor says and does.

A resident said he could give a very strong counter-argument. He said he did not feel that was necessary to take so many points. He stated for the record to note there are numerous health, safety and environmental reasons for posing fluoride and they can be brought out at any time, if there is a public hearing. Dr. Hart said he had nice thick notes on every one of the objections.

A resident asked for a clarification in regard to where this stands, asking if the Board was going to vote on this. Supervisor Fuller said no that this has not gotten that far yet. The resident said that was good and he will respond later.

Supervisor Fuller said she thinks the question for the Board is are they looking to set a public hearing; do they view fluoride as an issue that needs to be discussed in this community; at this time has there been enough concerns raised both pro and con fluoride. She said they have read all of the information that has been sent to them and if you research on the Internet, you can find arguments for and against fluoride. She stated, the Town Board needs to make a decision. She said during the last 10 years she has not seen this as a major concern on the minds of the residents of the community. She said certainly it has developed, noting Mr. Marcelle brought it up probably last October and asked that it be brought to the forefront and this is where we are. She said the letters and emails she has received probably max would be 150 maybe. She said they represent both sides and how many are actually Bethlehem residents are the other real concern she has. She said after seeing the response from the community, a public hearing could be set. She stated the hearing is where a decision would be made. She said this is a procedural question at this time.

Councilman Lenhardt asked Town Attorney Alessi if this is the type of issue that would lend itself to a referendum or is this precluded from the referendum.

Town Attorney Alessi said he would have to look at that issue to answer the question

definitively. He said in order to have a public hearing, which is not his question, there has to be a question posed upon which to have the public hearing. He said there has to be something that there is a crystallizations debate, etc. He stated Supervisor Fuller said it best when it would be a public meeting and then there is a determination as to what the question would be for the public hearing but he noted he could look at the question of a referendum and report back to the Board.

Councilman Lenhardt said he would like to hear more from the public as to what they feel and how the Town should proceed.

Councilman Davis agreed that the meeting should be called a public forum. She said she thinks that is what it would end up being. She asked about the fact that the Board did vote on this previously. She said this was something brought up, considered and voted on and whether it was a final vote. She asked if there is anything that would prevent the Board from taking this issue up again for a final vote. Supervisor Fuller said it was the Town Board. Dr. Hart said the Town Board did not vote on it. He said the Town Board lacked a motion and therefore it died. Councilman Davis said she did not remember that. He said it was turned down essentially by a non-vote.

Dr. Hart said there is a lot of information out on the Internet and available. He said there is also a lot of misinformation. He said you have to be able to look at the information, sort it out which should be done on any subject on the Internet. He said there is some terrible advice on line. He noted he has a full bookshelf of information in his office and he is willing to share the information.

A resident supported Dr. Hart's position and said it has been many years since the Town Board has even considered it, that would be Corrigan's time and she remembered that. She said it was not voted on. She felt it would be great to have a Town discussion on it.

Supervisor Fuller thanked everyone. She said the question Councilman Lenhardt asked about whether this could go to a referendum. She said legally is not the issue she would address, she thinks going to a referendum is something that she would not support because it is the Town Board that has been elected to make the tough decisions. She said they should be the one to determine what the result will be in this community. She said she just wanted to get out ahead of the referendum issue but noted they could continue to research it.

Councilman Marcelle thanks the Supervisor for the opportunity. He said he did not have a motion or anything at this time. He said he views this as a process of the first step being public awareness. He said the Spotlight has done a good job and he thinks this starts the process. He stated he is not looking to do something overnight but to try to educate the community and eventually if there is support for this, bring a resolution and a public hearing on that resolution. He said he is not prepared tonight to do anything more than thank the Supervisor for putting this on the agenda.

Supervisor Fuller asked if he wanted more time to set a date for a public forum.

Dr. Hart asked if the Town was still drawing water from the Guilderland supply.

Mr. Secor answered we are not, it stopped in December and he does not expect any more purchases from Guilderland unless there is an emergency in North Bethlehem.

Dr. Hart replied as a health professional in this Town, that upsets him. He said there has been no public notice that that has been cut off after there was public notice that it was installed. Mr. Secor said they did give notice and there were articles in the Spotlight. Supervisor Fuller noted it was on the website.

Supervisor Fuller said there will be some more thought about this and put it on a future agenda. She said it would be on the web page to let everyone in the community know that some time it will be on when there has been a decision about the public forum. Councilman Davis said in order for her to understand, there will be a public forum first to accept all views on this issue and then subsequently, if the Board feels that is warranted, then there would be a public hearing. Supervisor Fuller said this was correct.

The next agenda item was to adopt a resolution regarding Republican Election Inspectors and Poll Clerks as submitted by the Bethlehem Republican Committee.

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

RESOLVED, that pursuant to Article 3 of the Election Law, the attached list of persons be and they hereby are appointed Election Inspectors and Poll Clerks as recommended by the Republican Committee to serve for the conduct of elections from July 15, 2004 through July 14, 2005.

The resolution was adopted by the following vote:

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

Noes: None.

Absent: None.

The following item was to acknowledge receipt of Quarterly Franchise Fees from Time Warner Cable in the amount of \$80,254.77.

The next item was to acknowledge receipt of the Annual Report of 2002 from Nancy Mendick, Receiver of Taxes and Assessments. Supervisor Fuller commended Mrs. Mendick for a job well done.

The following item was to acknowledge receipt of approved lot line revisions for Clearview Subdivision from the Planning Board for information purposes.

The following item was to acknowledge receipt of the Final Plat of the James 3 Lot subdivision from the Planning Board.

Supervisor Fuller asked if anyone wished to address the Board. Resident Kristy Sagor said she lives in Selkirk and stated the reason for this was on July 16, 2002 she was attacked by a pit bull. She said this was on her street while she was walking her dog that was on a leash. She said the dog was running at large. She said the police did come but there was no animal control officer that showed up. She stated apparently the one that was on duty went home sick but as far as she was concerned, the animal control officer should have been called and he should have come. She said she has a copy of the police report and she wanted to press charges but was told no. She said they asked what she would press, assault, negligence, leash law. She was told she could not get them on a leash law. She said the police closed the case and it went to the District Attorney's office. She went on the say she called the DA and talked to him. She said Ms. Margess tried to come up with charges. She said the charges were filed as nothing more than harassment because it was filed as a violation, which is nothing more than harassment. She said as far as she is concerned on Halloween, if the Board remembered, the girl in Albany who was attacked. She said she called the City of Albany's Police Department to find out the information because the owner was charged. She said she then called our Bethlehem Lieutenant and also spoke with the Supervisor in regard to the leash law, Agricultural Laws. She said nobody has been able to answer her question to this day.

Supervisor Fuller asked if Lieutenant Berben gave her a call back after she spoke with her. Ms. Sagor said nobody could answer her question. She still has not gotten an answer as to why in her case nothing was done, according to her. She said she also researched it on the computer, the Town of Bethlehem regulation for dogs. She said in there it states nothing about a leash law and has started a petition which she has signatures to be presented to the Board which is asking for support for the reevaluation of the Article I regulation of dogs because it does not protect the public nor is there sufficient recourse. She said in her case, she has been left to pick up the mess, not to mention she is out of a job, not to mention that she has gone through back surgery – the physical, mental, emotional anguish that has gone through her home. She said this is not her job but if it is going to help somebody else then she is willing to do it. There was an 8-year-old little boy standing approximately 8 to 12 feet behind me who witnessed the whole thing. Could you imagine if he got a hold of the little boy, he might not be here

today? She noted things have been on the news about these dog attacks. She said when she saw the dog charging at her and her little dog, she thought they were done.

Ms. Sagor continued she has a copy of the incident analysis report, which is a 16-month period from January 1, 2002 to present indicating the number of attacks in the Town of Bethlehem is 33. Town Attorney Alessi asked if these were attacks on people. Ms. Sagor said yes. Supervisor Fuller noted Chief of Police, Louis Corsi, was in attendance and she knows this case is before the DA. Ms. Sagor said the case is closed. Supervisor Fuller asked the Chief if he wished to comment. Chief Corsi said the case is not closed and is open. He said the District Attorney is reviewing the process right now. She said she spoke with Ms. Mergess and the case is closed. Chief Corsi said she is misinformed, the case is open. She said she spoke with Erin at Crime Victims because she had applied for crime victims. She said she got denied because the police never filed charges. In order to get assistance, Ms. Sagor said, there has to be a crime but because it was filed as a violation, which is not a crime, they are not willing to help her. She noted she has a copy of the denial letter also. Town Attorney Alessi said he had a question to follow up, noting she mentioned 2 people and 2 different agencies – mentioned Erin at Crime Victims, Ms. Sagor said this was correct. And, Mr. Alessi said mention of Rene at the DA's office. He asked when Ms. Sagor last spoke with Rene at the DA's office. Ms. Sagor said approximately a month ago. Town Attorney Alessi asked what Rene said to Ms. Sagor. Ms. Sagor said she was trying to come up with the 2 charges but this is out of their jurisdiction. Town Attorney Alessi asked if Rene said the case was closed one month ago. Ms. Sagor said Rene told Erin, who she spoke with today, that the case is closed. She said all they could come up with a violation and not come up with charges because the owner of the dog is in Hackensack, New Jersey. Councilman Davis said that was her questions, whether she knew where the dog was. Ms. Sagor said she did, which the dog was deemed by Judge Egan to be violent. She said when they went to pick the dog up, Albany County Health Department released the dog back to the owner to take to New Jersey, which does not sit well with her.

Councilman Marcelle asked when the attack occurred. Ms. Sagor said July 16, 2002. He asked if she has talked to counsel or if she retained a lawyer to help her. Ms. Sagor said she would prefer not to go into that. Supervisor Fuller noted when she spoke with Lieutenant Berben, after she spoke with her; he had given her a history of the case but said he had discussed this at great length with you and that it was in the hands of the Albany County District Attorney. The Supervisor said since then, she has not heard anything about that other than when Ms. Sagor wanted to come into the Board meeting and she was not there for the last meeting. She asked if she has talked to the Bethlehem police. Ms. Sagor said she has on several occasions and she wanted to know why she could not get him on a leash law because there are stipulations. She said you can have your dog off of the leash provided you have control and she noted apparently they did not have control because the dog had to be removed off of her but nobody wants to look at the whole picture. She said this is an epidemic and something needs to be done.

Councilman Davis asked if the owner was in her proximity at the time with the dog and the dog running loose. Ms. Sagor said the owner had come up from Hackensack,

New Jersey because his children live down the street from her. She said the owner brought a friend with him. She said the owner ran to the store and his friend was supposed to be watching the dog. She said the dog was out running. She said she heard a man yell while she was walking up the road and made it 4 trailers up when the dog beelined in the middle of the road, stopped, looked at her and her dog – she noted she stood still and pulled her dog close to her – and that’s when the dog went at them. She said it had her dog’s leg in its mouth. She said she got it off of her dog and that was when it attached her. She said the owner did come down to the house, after her fiancé went up there because the man that was supposed to be watching the dog ran inside, hid, locked the door, shut the lights off and shut the curtains and would not answer the door. She said when the owner came home; her fiancé was trying to find out where the dog was. She said the owner did come down then and speak with her. She said that was the last she spoke with him.

Councilman Davis asked Ms. Sagor if she was hospitalized. Ms. Sagor said she was in the hospital and got released. She said she had back surgery two months ago. Chief Corsi said he is expecting a phone call from Albany County. He said there are some details that have not been revealed.

Ms. Sagor asked what would be done to protect them, the citizens from this happening. She said she would like to see a cut and dried leash law. She said she feels that when a dog is running at large and attacks another human being – she said she is not talking about a dog chasing a cat nor about once in a while when a dog gets loose – but when you get viciously attacked there should be a recourse and she does not understand why there was not.

Councilman Marcelle said there is some recourse, noting outside the criminal venue you can sue the owner. Ms. Sagor said she understands that. Mr. Marcelle said there are a number of recourses the law provides and they are not all criminal. He said he wanted to make sure Ms. Sagor understands that. She said she did, asking why she could not get him on the leash law. Councilman Marcelle noted the Chief just said he is going to explain that. Chief Corsi said he could not now because he does not have all the particulars in front of him but he understands there are circumstances involved.

Town Attorney Alessi asked if Ms. Sagor said there was a court proceeding in front of Judge Egan and noted he thought she said Judge Egan declared this animal a dangerous animal. Ms. Sagor said yes. Town Attorney Alessi asked how that occurred. Ms. Sagor said the next day or 2 days later when the animal control officer came to her house finally and asked if she wanted to deem the dog violent. She said she said yes. She said he made a phone call to Judge Egan; she met him at the police station, went over the records and deemed the dog violent. She said when they went to pick the dog up; the dog and the owner were gone because Albany County Health Department released the dog without notifying Bethlehem police. Town Attorney Alessi said the determination by a Town justice that a dog is violent said that is a stronger determination than a leash law violation. He said there are specific things that then happen once a dog is deemed violent so what he is understanding is that the court system in Bethlehem made a

determination that this dog was violent when they went to implement that determination – noting again that is much more severe determination than a mere violation of a leash law, leash law you keep your dog – when there is a dangerous dog determination there are seizure procedures that can be had. He said it sounded to him like what was said that a determination was made and then there was an attempt to go get the animal but the animal was already absconded, so to speak, to New Jersey, asking if this was the case. Ms. Sagor said that was correct. Town Attorney Alessi thanked Ms. Sagor. Chief Corsi said that was done in part by Albany County Health Department who released the dog, which was held for observation, and there was a proceeding before Judge Egan for seizure of that animal and when the officer went to seize the animal, it had already left the jurisdiction.

Supervisor Fuller noted a petition had been brought and asked that it be presented to the Board. She said they would take a look at the leash law. Ms. Sagor presented the petition to the Supervisor. Supervisor Fuller thanked Ms. Sagor.

She said she needed to know, in the Town of Bethlehem, if the Board is able to pass resolutions, new laws, stronger penalties in regards to the dog attacks. Supervisor Fuller said they are able to. Ms. Sagor asked if that would be a possibility. Supervisor Fuller said they would take a look at it and see. She said the attacks mentioned would have to be looked at. She said certainly the animal control officers and the police department has not spoken about dog attacks on people at this point. Ms. Sagor said she knows the Board sets the laws and then the animal control officers are supposed to enforce them. She asked if this was correct. Supervisor Fuller said the Board sets the laws and the police department employs the animal control officers. Ms. Sagor asked if there is a reason that being this was a vicious dog attack that the animal control officer was not called in. Supervisor Fuller said she did not know. Chief Corsi said there are times when they are not available. The Chief said the seizure of an animal has to come from an authority other than the police department, noting the judge has to do view that animal as dangerous. He said they are not empowered to seize the animal because of an action or attack. He said they can make a recommendation but that has to come from the judge. Ms. Sagor said pretty much what is being said is when a person is attacked it kind of gets left like that until... Chief Corsi said it is gray in a lot of respects. He said all things concerned, they try to hold the animal and get the judge to seize the dog so that a dangerous dog complaint can be done. He said that process started in Bethlehem but terminated once the animal left the jurisdiction on the advice of the Albany County Health Department. Ms. Sagor asked if the animal control officer had showed up the night of the attack that it might possibly be that the dog would have been able to be seized where as he did not show up until 2 or 3 days later. Chief Corsi said he was sure that was a follow-up to the original call but not having the particulars in front of him he could not answer that.

Ms. Sagor said when she printed the copy of the dog laws for the Town of Bethlehem; she noted there is supposed to be a leash law. Supervisor Fuller said yes. Ms. Sagor asked if there is a reason why it is not on there. Supervisor Fuller said she had no idea. Councilman Lenhardt said the website is a little problematic noting when you

get looking at the bottom and it jumps to the top of another section. Supervisor Fuller said a copy could be provided by the Town Clerk's office after the meeting.

Ms. Sagor said last week, the woman attacked by a beagle, she thinks it was in Albany, following that dog attack the Times Union did a follow-up with it and with Albany and Troy and Schenectady, everything that they are going to do to prevent this. She asked what the Town of Bethlehem plans to do to try and prevent this. Supervisor Fuller said they will do whatever they have to do but they are not aware of dog attacks until you have come in here this evening and told us, citing 33 attacks. Ms. Sagor said it is an epidemic; it is on the news all the time. Supervisor Fuller said it is on the news in other communities but she is not sure that this has been seen here. She said there is a leash law in effect here. Ms. Sagor said with stipulations, it is not cut and dry. She said you could have your dog off of leash provided you have control of it. Supervisor Fuller said she thinks she needs to take a look at the law. Ms. Sagor said this was what the animal control officer told her. Supervisor Fuller said the animal control officer does not make the rules and it is in the Town Code and it is the dog ordinance. She said she thinks it is 2 or 3 pages long.

Town Attorney Alessi said they do not have an entirely free hand because the law has to be consistent with the New York State Agriculture and Markets law. He said there was some leeway but they do not have a complete free hand. Ms. Sagor said she knows that she is not the first person this has happened to. She said 2 dogs attacked John Hillmann's father. She said the 2 dogs were taken and brought up to Berne where she thinks there is no leash law up there. She said it pretty much was the same situation as hers, nothing was done per se. She said they are left to pick up the mess where it should not be like that. She said there should have been charges in both cases. Town Attorney Alessi asked by whom. Ms. Sagor said let's see... Mr. Alessi asked who brought them to Berne. Ms. Sagor said she assumed by the animal control officer. Councilman Davis asked for what purpose. Ms. Sagor said to remove them. Someone said the dog owners took the dogs up to Berne.

Someone in the audience said what happened to John Hillmann was rottweilers attacked his father on his door step, father beat them up with a cane, his father is 90 years old. John called the police. John's biggest thing was because his father is 90 some years old; he did not want to drag his father through the court system. He said it was that plain and simple. Councilman Davis said that was understandable. He said the police part, nothing against the police, but the police part was couldn't do anything unless your father's going to testify. John dropped it but the biggest thing was the owners of the dog took the dog to Berne and that was that. All that is being said here is responsibility. He said the dog went after her dog. She got caught in the middle he said. He said the dog went to New Jersey. He said he is trying to do everything with one income and maybe it is vengeful but this guy and mutt is having a good time in New Jersey. He said the officer that came to the house was a very nice guy but he did not understand what was going on either. He said if someone gets attacked going to the plaza, shit is going to hit the fan and it is not going to be pleasant. He said all that's being said is for some reason he said he is fearful if he ever got loose and bit a kid, I'm hung. And, it is not about a pit

bull, it is about the owner of the dog, he said. He said there are certain animals you have to take more control of. He acknowledged there are not a lot of attacks in Bethlehem. He said there are a lot of big dogs and anything can happen.

Supervisor Fuller said the matter is with the District Attorney and they will look into and she will speak with the Police Department about the leash law. She will also find out how many actual dog bites there has been and with the DA is where this can be followed up. Ms. Sagor said the Town needs to prevent this from happening, whether it is stricter laws. She said the owner has to be responsible for the actions of his own animal and if I cannot force it, somebody else needs to. Supervisor Fuller thanked Ms. Sagor.

Supervisor Fuller asked if anyone else wished to address the Board. A gentleman said some towns the Town Board each member has an assignment as a liaison or to be especially knowledgeable about the departments in the Town. He asked if that was the situation here in Bethlehem. Supervisor Fuller said they require everyone to be knowledgeable with all the departments. He said he left her office on December 15, 2002, went over to the Police Department and asked the question have they ever surveyed the percentage of cars that speed on Kenwood Avenue west of the corners. He said the patrolman put some numbers on a form and they said someone would call the following week. He said this is 5 months later so he guesses he is not going to get a call. His question was did the Department have that form in its files or was it put in the wastebasket and walk out the door. The second question, he said, goes to the original question, has the Police Department made any survey of speeding on Kenwood Avenue west of the corners. Supervisor Fuller said she would find out for him.

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Resident, Marie Capone said since there is nobody else, it will be her turn. She said 3 things to talk about in less than 5 minutes. She asked what was with the light beam in front of the Town Hall. Supervisor Fuller said it was to light the flag. Mrs. Capone said it is on all night. Supervisor Fuller said it is because the flag is supposed to be lit at night.

Mrs. Capone said she noticed the dolly is back in the middle of the street to slow down the ambulance and the fire truck. She said the people on Nathaniel Boulevard are very upset by the increase in traffic on their street.

Mrs. Capone said in today's paper she read a very nice biography of Mr. Catalano that should be coming in the election. She said Ms. Egan is very, very strong. She said if Mrs. Fuller and Mrs. Davis does not take early retirement, well, next January, Danny Plummer would be Deputy Supervisor. Supervisor Fuller said there is a time for public comment and a time for political comment that she will not allow from this day forward. She said we only have to go from now until November.

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Supervisor Fuller asked if anyone else wished to address the Board. Councilman

Marcelle said he was looking at the Bill of Rights and he did want to thank the Bethlehem Neighbors for Peace. He said he noticed the inscription said the cornerstone of our democracy and he does appreciate that. He said for one who works with the Bill of Rights on at least a semi-regular basis, he views it more than just democracy he views it as our fundamental freedoms and liberties even though there are certain things as he read the Bill of Rights that says the majority can never do. He said he wanted to thank the neighbors for posting that for our citizens to see and to remind them of our freedom and liberty in this country. Supervisor Fuller thanked Councilman Marcelle.

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

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

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

The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to adjourn the regular Town Board meeting at 8:50 p.m. The motion was carried by the following vote:

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

Noes: None.

Deputy Town Clerk

EXECUTIVE SESSION

There was no formal action taken at the Executive Session.