

TOWN BOARD
MAY 23, 2001

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

PRESENT: Sheila Fuller, Supervisor
George Lenhardt, Councilman
Doris M. Davis, Councilman
Daniel G. Plummer, Councilman
Susan Burns, Councilman
Julie McNeil, Deputy Town Clerk
Robert J. Alessi, Esq., Town Attorney

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SUPERVISOR FULLER: Good evening and welcome to a meeting of the Bethlehem Town Board. I would like to invite all of you to join us in the pledge of allegiance.

The first item on tonight's agenda is the public hearing to consider the proposed local law amending sections of the Code of the Town of Bethlehem related to off street parking. This originally was scheduled for our May 9th Town Board meeting, we had to table it and reschedule it for this evening. I would ask the Board for a motion to remove from table.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to remove from table and proceed with the public hearing regarding a proposed local law amending section of the Code of the Town of Bethlehem related to off street parking. The motion was passed by the following vote:

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

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Mr. John Flanigan is here this evening to give us a brief history on what this is all about and how it impacts, not only the Four Corners, but the community.

MR. FLANIGAN: Good evening. This section of the code change was put in or came about because the Four Corners merchants had a problem with working on their existing buildings because of the parking requirements. Because you all are aware, most of those older buildings have been there since way back in the beginning, prior to '65, and there was no parking down there. So, any time you wanted to change something, especially change the use from one use -- say from an office to a retail -- you had to apply parking. As long as it stayed the one use, you wouldn't have to worry about it. So, these which are very simple amendments, have been put together. And, the 2 things come right up in the beginning are in definitions, it's a joint parking lot. A parking lot shared by and serving 2 or more commercial land uses in instances where said land use are not located on the same building lot. Joint parking lots may be located on a building lot independent of the uses it is intended to serve or one or more of the lots so served. Then there was another problem in there on what does rebuilt mean because a lot of these... well, all of these buildings are non-conforming uses and you can only change a non-conforming use unless you can meet today's requirements... you're going to change a non-conforming use to a conforming use. So, the definition rebuilt for the purpose of interpreting the off street parking regulations found in Section 128.22 of this chapter, the term rebuilt shall mean to tear down or demolish a building including its major structural components and to build it again. The term rebuild shall not apply to activity such as remodeling, rehabilitation, restoration or repair to a building even if the activity is extensive.

Now, you would get into that today... under today's codes, especially the building code, where if you were going to do anything major on that building you'd have to put handicap situations in there. But, this will... and then that would kick in the parking requirements, this way it would not. We would allow them to do some work around the different areas of the Four Corners.

And, then there is a section in the code, amend article 5 permitted uses of the Town Zoning Code and that would be to section the CC retail commercial district and also the C general commercial district which would be amended to say public parking lot and joint parking lot. Now the major point that came out of all of this was where were we going to put the parking because these places do need some parking. So, it was put together and section j, permitted uses, Article 128.22, nothing contained in this chapter shall be interpreted to prevent in a C or a CC commercial district the provision of joint parking lots as defined by section 128.1B of this chapter. Parking spaces located in a joint parking lot, may be used to satisfy the off street parking requirements of this article provided said spaces are located within 600 feet walking distance of a lot containing the land use there intended to serve as measured along the public right-of-way and further provided that said spaces shall be subject to appropriate deed restrictions. Other legal instruments as approved by the Planning Board counsel binding the owner of the parking spaces and his or her heirs and assignees to provide and maintain the required number of spaces for the land use they are intended to serve either throughout the existence of such land use or until such spaces are not provided elsewhere. In no instance shall parking spaces be in a joint parking lot that are devoted to meeting the parking requirements of one land use and used to meet the parking requirements of another land use. In other words, you can't use the same parking place for 2 different uses. If someone was going to build an off site parking lot, they'd have to build that and be able... if they did it jointly, there would be so many for 1 use and so many for the other use so the parking requirements are still there, except we are allowing them to be off site. As the code sits today, it is all on the same site... it has to be on the same site that the building is on.

So, basically that is it. It is very simple but I think it will make a big difference in what can be done at the Four Corners. You've seen some changes in just the last 2-3 months at the Four Corners which have made a big difference but it never got into the parking problems. So... but... you know, there are some plans to go forward on the other side of the street today in the area of the barbershop... the old barber shop and the bootery and those areas, and this would really help to be able to get that off the ground.

SUPERVISOR FULLER: Okay, John, thank you. Are there any questions from the Board?

Any questions, comments from the audience on the off street parking? Okay. We will ask you to speak in favor or in opposition. You have to come to the mike, Steve. If you will give your name since it is a public hearing.

MR. BOLDUC: My name is Steve Bolduc. I am owner of Keystone Builders and I live above Keystone Builders. I've been working with the merchants group in regards to this issue and it's incredibly important to get this passed if the Four Corners is to have the potential to improve. We've got some plans with Gail Sundling to go ahead with her building which is contingent upon the parking issue. So, if that building is to get improved, now is the time to move ahead and I strongly hope that you can do this. Thank you.

SUPERVISOR FULLER: Is there anyone else wishing to speak in favor or in opposition?

MS. DELANEY: Hi. I'm Marty Delaney, President of the Bethlehem Chamber of Commerce. And, I am really pleased to see this first step in the project... the ongoing project of the Four Corners Merchant Group in terms of trying to make things a little bit easier for some of the businesses there. But, I think, even more so,

what this does is help businesses in the entire community which is what we are all about... is being business friendly, helping the businesses in our communities to succeed... small, large, whatever they are. We really appreciate your giving this a lot of consideration. Thank you.

SUPERVISOR FULLER: Thank you, Marty. Okay, may I have a motion to close the public hearing?

The motion was made by Mr. Plummer and seconded by Mrs. Davis to close the public hearing at 7:40 p.m. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

Deputy Town Clerk

Supervisor Fuller convened the regular Town Board meeting following the close of the public hearing. She noted there was a SEQR resolution before the Board which lists this as a Type I action under SEQR. Then a motion can be taken on adopting the proposed local law.

TOWN BOARD
TOWN OF BETHLEHEM
SEQR RESOLUTION

DETERMINATION OF SIGNIFICANCE / NEGATIVE DECLARATION
LOCAL LAW NO. 5 OF THE YEAR 2001
AMENDING SECTIONS OF THE TOWN CODE RELATING TO OFF-STREET
PARKING

- WHEREAS, the Town Board of the Town of Bethlehem is considering the adoption of Local Law No. 5 of the year 2001, which would amend certain sections of the Town Zoning Code relating to off-street parking; and,
- WHEREAS, provisions of the Local Law would: (a) clarify that the off-street requirements do not apply to buildings constructed prior to July 12, 1965; (b) provide a definition for the term joint parking lot; (c) allow the use of joint parking lots for meeting off-street parking requirements; and (d) allow such parking lots, along with public parking lots, as a permitted land use in Commercial C and CC Zoning Districts following site plan approval by the Planning Board; and,
- WHEREAS, the State Environmental Quality Review Act (SEQR) regulations found at 6 NYCRR Part 617.3(a) require that no agency may undertake, fund or approve an action until it has complied with the requirements of SEQR; and,
- WHEREAS, the SEQR regulations at 6 NYCRR Part 617.6(a) require that as soon as possible in an agency's formulation of an action it proposes to undertake it shall: (a) determine whether the action is subject SEQR; (b) determine whether the action involves a federal agency; (c) determine whether other agencies are involved; (d) make a preliminary classification of the action; (e) determine whether a full or short form Environmental Assessment Form (EAF) will be used; and (f) determine whether the action is located in an agricultural district; and,
- WHEREAS, 6 NYCRR 617.6(b) indicates that when a single agency is involved with respect to an action, that agency shall be the lead agency and determine the significance of the action; and,
- WHEREAS, the Town Board has received an EAF prepared by the Town Planning Department which addresses the proposed action, and said document indicates that (a) the proposed action is subject to SEQR and properly classified a Type I action; (b) there is no federal agency or other agency involvement with the action; (c) portions of the C and CC Commercial zoning districts effected by the land use amendments are located within an agricultural district but the provisions of subdivision (4) of section of section 305 of article 25-AA of the Agriculture and Markets Law do not apply to the action; and,

WHEREAS, the Town Board has held a public hearing on the proposed action and has considered the comments provided at said hearing; and,

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

NOW, THEREFORE, BE IT RESOLVED,

that the Town Board of the Town of Bethlehem hereby determines that adoption of Local Law No. 5 of 2001 constitutes a Type I action that is subject to SEQR and that there are no other involved agencies with respect to this action; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby determines that it is lead agency with respect to this action and that a long-form EAF will be used to determine the significance of the action; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby determines that the proposed land use amendments effect land located within a certified agricultural district, but the amendments do not create adverse impacts upon said district, nor do the provisions of subdivision (4) of section 305 of article 25-AA of the Agriculture and Markets Law apply; and,

BE IT FURTHER RESOLVED

that based upon its review of Local Law No. 5 of 2001, the EAF prepared by the Town Planning Department, public comments concerning the proposal, its own independent analysis of the proposed action, and comparison with the Criteria for Determining Significance found at 6 NYCRR Part 617.7, the Town Board hereby finds that adoption of the proposed Local Law constitutes an action which will not have a significant impact on the environment and, therefore, does not require preparation of a draft Environmental Impact Statement; and,

BE IT FURTHER RESOLVED,

that this Determination of Significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and

BE IT FURTHER RESOLVED,

that the Town Planning Department is hereby authorized and directed to file any and all appropriate notices of this determination so that the intent of this Resolution is carried out; and,

BE IT FURTHER RESOLVED,

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

1. Adoption of the Local Law would not result in any direct action or physical changes to the environment. The Local Law would clarify the intent of the Town's off-street parking requirements as they relate to buildings constructed prior to July 12, 1965 (the Local Law eliminates such requirements).
2. The law would also allow the construction of public parking lots and joint parking lots in C and CC Commercial Districts following site plan approval by the Planning Board. Such activity is consistent with the types of commercial land use currently permitted in these districts.
3. Any changes to the environment that may occur from adoption of the Local Law would be indirect and result from future undertakings that would be permitted by the Local Law. These undertakings might include construction of a joint or public parking lot, rehabilitation or conversion of a building, or sharing of a parking lot by two or more businesses.
4. Adoption of the Local Law does not include any proposal to undertake such activities at this time.
5. Although adverse impacts may be possible from future undertakings, the exact nature of such impacts will be project specific and will depend on the specific design and location of the project. These potential impacts are too speculative to evaluate at this time, but will be considered on a case-by-case basis, if and when any such proposals are submitted to the Town for review and approval.

On a motion by Mr. Lenhardt, seconded by Mr. Plummer and a vote of 5 for, 0 against, 0 abstention and 0 absent, this RESOLUTION was adopted on May 23, 2001. The following SEQR resolution was presented for adoption:

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The motion was made by Mrs. Davis and seconded by Ms. Burns to approve the adoption of Local Law No. 5 of 2001 amending the Code of the Town of Bethlehem regarding off street parking. The motion was passed by the following vote:

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

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Supervisor Fuller thanked everyone for attending and their patience above all else. Councilman Davis noted this was the result of a lot of hard work and meetings. She said this was a great step forward and thanked the Supervisor for moving this on. Councilman Lenhardt said the next step is to make it more pedestrian friendly. Supervisor Fuller said they are looking forward to the work getting started.

Supervisor Fuller next acknowledged the second public hearing was scheduled for 8:00 p.m. and proceeded with the regular agenda item of a recommendation from Ms. Janine Saatman, Deputy Town Planner, Planning Department, for acceptance of application for amendment of boundary for PCD No. 6, First Columbia, New Scotland Road, Slingerlands for rezoning from A Residence to PCD. Mr. Milnarik from First Columbia did a brief presentation.

Mr. Ray Milnarik said what they are asking for was a recommendation to move forward with the project adjoining their current project on New Scotland Road. He said they need to amend the PCD approval and add a small 3/8 acre parcel to the PCD. He said they are proposing to build another building or two. Mr. Milnarik said they are proposing to build 2 buildings – 1 on the current property and 1 on a portion of an adjoining piece of property that they do not own but have under contract. He said there is an old, deteriorating white house on the property and it is currently zoned residential. Councilman Plummer asked if they envision having something similar to what is located at the site now. Mr. Milnarik said the current building is a 42,000 square foot medical office building and they do not currently see an additional need for medical space but are proposing a general office use for the next building which is why they need to buy the current 3/8 acre parcel adjoining the property.

Councilman Lenhardt noted there was a picture of the proposed 30,000 square foot building but there was no concept drawing of the 10,000 square foot building. Mr. Milnarik said that building has been conceptually designed -- a foot print design -- for it rather than the architectural plans. He said, however, it will be similar in look and style to the current building on the parcel and should compliment it. Councilman Lenhardt asked how many offices will be contained in the building. Mr. Milnarik said the smaller building is approximately 10,000 square feet and could be one or two occupants. Mr. Lenhardt noted since it is proposed to be built into the hill like the existing building, would it be 2 levels. Mr. Milnarik said that was correct. Mr. Lenhardt said it does not show a parking lot on the back. Mr. Milnarik said that was right.

Councilman Davis asked what this will do, as far as, expansion of parking in regard to the original proposal. Mr. Milnarik said currently there is plenty of parking for the existing building and the preliminary site plan that they propose now would have plenty of parking for the new buildings and not infringe on the existing medical building. Councilman Davis said originally the parking lot was designed to allow for additional parking adjacent to it and asked what will happen

with that. Mr. Milnarik said actually the additional expansion parking capabilities will still be there. He said this project will not affect those at all, noting they are in the rear of the existing medical building and the frontage is on New Scotland Road.

Councilman Lenhardt asked if the 2 proposed buildings would completely build out the PCD or would there be potential for something else to be added. Ms. Saatman said she could not say, given the environmental characteristics of the site, they would be able to get anything else on the site. She said she has not calculated it by square footage at this point. Councilman Lenhardt said it would seem to him that this would pretty much complete the development on the project.

Councilman Burns asked if they will share the ingress and egress. Mr. Milnarik said for the existing building there is one access to New Scotland Road. He said they are proposing one additional access point toward the city line, noting it is in the preliminary site plan.

Councilman Lenhardt said the recommendation from the Town Planner speaks of a review and approval of extension of a public water line. He asked what extension is being referred to, noting the current line goes down to the driveway or even to the house that exists there. Ms. Saatman said the existing water line was brought down to where the existing driveway is. She said in speaking with Mr. Secor, Commissioner of Public Works, it was noted that the water line would be required to be extended down toward where the existing house is and possibly up to the proposed new driveway. Councilman Lenhardt said he thought it was already to that house. Mr. Secor, Commissioner of Public Works, noted there is a 1 inch water service line but the water main stops at their existing driveway. So, since they are proposing a new driveway, it would be extended down with another hydrant and then it will be subject to review with the fire company, as far as, additional hydrants he said. Mr. Secor said the Building Department may have input also. He said for the building in the back, fire protection will also have to be worked out. Councilman Lenhardt thanked Mr. Secor.

Councilman Davis asked -- indicating Mr. Milnarik said this will be additional office space -- if this is administrative office space or additional medical office space. Mr. Milnarik said they do not think there is a need for additional medical space, noting that is certainly an option. He said right now they think there is a demand and need in the Town of Bethlehem and this part of Albany County for class A general office space. He said they envision a new state of the art high-tech building bringing fiber optic into the building and meet the needs and capabilities for higher technology companies. Councilman Davis said she thought she remembered that being proposed in the original building. Mr. Milnarik said that was always proposed for medical use strictly and that was their intent with St. Peter's. He said the building was finished about a year ago and it is 100 percent occupied and it is occupied by all medical and health care uses.

Supervisor Fuller asked if a day care facility was being considered. Mr. Milnarik said with the smaller building that is what they are envisioning. He said there appears to be a need for day care and they have talked with some people about this. Supervisor Fuller asked if this would be a day care for the employees in the building or day care for anyone. Mr. Milnarik said this would be for the community and not just strictly for this project. Councilman Davis said this was interesting because when Terramere was originally discussed years ago in the early 90s as a PCD, that parcel included a day care center as the commercial property use. She said this has gone full cycle. Councilman Lenhardt remembered that it was for a day care center and exercise facility.

Mr. Milnarik said this project, as they envision it, is going to create opportunities within the Town. He said there is not a lot of class A office vacancy in the Town and some of the other communities in the area have these buildings and they have participated in some of the developments. He said they think it would be great for the town and residents. He said this seems to be a good area

within the Town and would be suitable. He said eventually the Blue Cross/Blue Shield building will have something happen and this will be a nice area.

Supervisor Fuller noted for Ms. Saatman that the Board is to send this on to the Planning Board for review and recommendation. Ms. Saatman said she was hoping to have the resolution approved and direct lead agency status. Supervisor Fuller asked if it would come back to the Town Board for approval. Ms. Saatman said this was correct. The following resolution was presented for adoption:

TOWN BOARD
TOWN OF BETHLEHEM
SEQR RESOLUTION
CLASSIFICATION OF ACTION AND LEAD AGENCY DESIGNATION
APPLICATION TO AMEND ZONING DISTRICT BOUNDARY
PLANNED COMMERCIAL DISTRICT NO. 6
NEW SCOTLAND ROAD
FIRST COLUMBIA L.L.C.

- WHEREAS, the Town Board of the Town of Bethlehem has received an application and full Environmental Assessment Form, Part 1, from First Columbia L.L.C., to amend the established zoning district boundary of Planned Commercial District No. 6, which is located along New Scotland Road; and,
- WHEREAS, the proposed amendment to the zoning district boundary would increase the land area of Planned Commercial District No. 6 to 17.3± total acres, as a result of rezoning a 0.39± acre parcel from Residence A District to Planned Commercial District; and,
- WHEREAS, First Columbia L.L.C. has submitted a conceptual plan for further development of the District in the event that the zoning change is granted and said plan shows: (1) construction of two office buildings containing a total of approximately 40,000 square feet of floor area, and (2) additional parking for approximately 198 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 appear to exceed these thresholds, and thus, is preliminarily classified as an Unlisted action; and,
- WHEREAS, 6 NYCRR 617.6(b)(2) & (3) establish procedures for coordinated review of Unlisted actions where more than one agency is involved;
- NOW, THEREFORE, BE IT RESOLVED,
that the Town Board of the Town of Bethlehem hereby determines that the application by First Columbia L.L.C. to amend the zoning district boundary of Planned Commercial District No. 6 constitutes an Unlisted action that is subject to SEQR; 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, or within 500 feet of, an established Agricultural District and therefore is not subject to the provisions of the Agriculture 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 Town of Bethlehem's Memorandum of Understanding for Planned Development Districts; and,
- BE IT FURTHER RESOLVED,
that the Town Board hereby determines that a federal agency, the U.S. Army Corps of Engineers, may have jurisdiction and be involved with respect to the proposed action; and,
- BE IT FURTHER RESOLVED,
that the Town Board hereby determines that 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 New York State Department of Transportation, (4) the Town of Bethlehem Planning Board, (5) the Town of Bethlehem Industrial Development Agency, and (6) the Town Building Inspector; and,
- BE IT FURTHER RESOLVED,
that the Town Board hereby determines that interested agencies with respect to this action may include the Albany County Planning Board; the NYS Office of Parks, Recreation and Historic Preservation; and the City of Albany; 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 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 interested agencies of the proposed action and to make referral of the application to the Albany County Planning Board pursuant to General Municipal Law; 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, 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 specific proposal for amending the zoning district boundary of Planned Commercial District No. 6.

On a motion made by Mr. Plummer, seconded by Mrs. Davis, and a vote of 5 for, and 0 against, this RESOLUTION was adopted on May 23, 2001.

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Supervisor Fuller thanked Mr. Milnarik and noted she was sure he would be ready to head to the Planning Board. Mr. Milnarik thanked the Board.

The next item was a request from David Austin, Administrator, Parks & Recreation Department, for acceptance of donation of a Mosquito Trap from Mosquito Technologies of New York, Inc., Delmar, NY. Supervisor Fuller noted Mrs. Tangora was in attendance. She said the trap is valued at \$892 and will be

installed at the Elm Avenue Town Park in a secured area. She said the donation was initiated by County Legislator, David Young, who is also working with the County on methods to reduce the mosquito population.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to accept the donation of a Mosquito Trap valued at \$892 from Mosquito Technologies of New York, Inc., Delmar, NY to be installed at the Elm Avenue Town Park in a secured area. The motion was passed by the following vote:

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

The next item was a recommendation from Town Planner, Jeffrey Lipnicky, for consideration of adoption of a proposed Local Law regarding Park Land Reservation and Fees. Supervisor Fuller noted she would like to table this item due to Mr. Lipnicky being ill at the time of the meeting.

The motion was made by Mrs. Davis and seconded by Ms. Burns to table consideration of adoption of a proposed Local Law regarding Park Land Reservation and Fees. The motion was passed by the following vote:

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

The next item was a request from Commissioner of Public Works, Bruce Secor, for approval to go to bid for one (1) new 2001 Truck Mounted Combination Vacuum and High Velocity Sewer Cleaner. Could advertise May 30, 2001 and open bids on June 12, 2001 at 3:00 p.m.

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

WHEREAS, the Town desires to advertise for bids for the purchase of one (1) new 2001 Truck Mounted Combination Vacuum and High Velocity Sewer Cleaner to be used by the Department of Public Works, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 30th day of May, 2001 and that bids be received up to 3:00 p.m. on the 12th day of June, 2001 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

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

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

The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve the transfer of \$2,142.69 from the insurance recovery account number A2680 to the collision repair account number police A3120.464 for repair of damaged police vehicle. The motion was passed by the following vote:

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

Absent: None.

The next item was a request from Engineering Division, Terrence Ritz, Department of Public Works, for approval of house number assignments for Bain Drive, Delmar. Supervisor Fuller requested a motion to table this item as the residents have not been contacted and until they respond the item should be tabled.

The motion was made by Ms. Burns and seconded by Mr. Lenhardt to table the request from Engineering Division, Terrence Ritz, Department of Public Works, for approval of house number assignments for Bain Drive, Delmar. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

The following item was a request from Engineering Division, Terrence Ritz, Department of Public Works, for approval of change in award of bid for plastic pipe.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the change in award of bid for plastic pipe as indicated in the Memorandum from Terrence Ritz, Department of Public Works, dated May 17, 2001, at the bid prices submitted. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

The following item was a request from Engineering Services Administrator, Michael Cirillo, for approval of reduction in bonding for Dowerskill PRD-4, Section 2B.

The motion was made by Ms. Burns and seconded by Mr. Lenhardt to approve the reduction in bonding for Dowerskill PRD-4, Section 2B as requested by Jenkins Building Corporation, Slingerlands, New York and recommended by Engineering Services Administrator, Michael Cirillo. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

The next item was a request from Administrator, David Austin, Parks and Recreation Department, for approval of Summer Personnel.

The motion was made by Mrs. Davis and seconded by Ms. Burns to approve the appointment of summer personnel as listed in the Memorandum from David Austin, Administrator, Parks and Recreation Department, dated May 17, 2001 at the titles and salaries listed. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

The Supervisor apologized for the confusion at the meeting but a public hearing cannot be started until the assigned time.

Hearing began: 8:00 p.m.

SUPERVISOR FULLER: The next one is to consider proposed Local Law amending the Code of the Town of Bethlehem, Vehicle and Traffic, Parking Prohibited at All Times on Groesbeck Place on the westerly side starting with the intersection of Laurel Drive southerly to the intersection with Delaware Avenue. This also was on the agenda for our May 9th meeting and had to be tabled and rescheduled for this evening. So, may I have a motion to remove from table?

The motion was made by Ms. Burns and seconded by Mrs. Davis to remove from and consider a proposed Local Law amending the Code of the Town of Bethlehem regarding Parking Prohibited at All Times on Groesbeck Place. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

Lt. Beebe did you wish to speak? This is the Groesbeck Place.

LT. BEEBE: This request has come... it's a safety issue as far as the school buses trying to...

AUDIENCE: We can't hear.

SUPERVISOR FULLER: Turn the silver one.

LT. BEEBE: Okay. This proposal came as a result of problems with the school buses trying to get in and out of Groesbeck Place because of cars parked on both sides. As you can see from some of these photographs, at various times, people are parked and blocking the sidewalks as well. Pedestrians are crossing between parked cars across to get on the west side of the road, as well. The reason we selected the west side was because that's the side the fire hydrants are on so that the hydrants would always be clear for fire apparatus.

SUPERVISOR FULLER: Okay, I'm sure there's people here this evening. I know that the Board has received some correspondence and this afternoon I received a letter from the... Mrs. And Mrs. Aquario who I don't believe are here this evening. Their letter will be included in the record and there is also a letter from Dr. Giombetti and I believe that Dr. Giombetti... Dr. Todd as he is affectionately known, is also here this evening. So, for the residents impacted by this, questions, comments first. But, if you would also like to speak in favor or opposition, the floor is open, come to the mike.

MR. ZILGME: (Inaudible)... buses have you been involved with your question, first of all.

LT. BEEBE: It wasn't a matter of accidents. It was a matter of access.

MR. ZILGME: Oh, access, all right. Buses aren't... to children to home or to school, I assume?

LT. BEEBE: Not as of this time.

MR. ZILGME: Right, and has the Board considered the fact that with the doctor's office there, also there's 6 children under the age of 3 located on this section that by opening it up, those buses move fairly quickly up and down those roads... that road. It's just going to make that travel that much faster. You know, that is a concern for those people who live on there. And, we also... I mean and my concern also is that it's 24 hours, 7 days a week, 365 day proposal for... and school doesn't last that long... as a teacher I know that. All right, so I mean, you know, it

seems that it's only 2 days... 2 times a day problem, buses coming in and out. Could not the Board take that into consideration. If you're going to restrict... maybe just under travel time of the buses. Also, when I moved in I knew the doctor's office was there. It's been there a long time, I think the residents like having the doctor there. I think... once again, we're going to end up restricting business in this town which I think is very important to this town.

SUPERVISOR FULLER: Okay, if I may have your name for the record. Because it is a public hearing we need to have your name.

MR. ZILGME: Sure, Peter Zilgme, 10 Groesbeck Place.

SUPERVISOR FULLER: Okay. Did you catch that?

DEPUTY TOWN CLERK MC NEIL: Yes.

MRS. CAPONE: This was studied by the Traffic Safety Committee. There's many a reasons to change that. You have parking on each side, and you have the snow bank, then you have the buses have to come along. Now the buses are bigger than they have ever been. They cannot come on Delaware Avenue from the school because they would touch on the center line to turn around to go. So, the Traffic Safety Company commanded that they would go that way because on top of it you would have the light to It was easier for the school bus to work with that. Thank you.

SUPERVISOR FULLER: Okay, for the residents on Groesbeck.

GENTLEMAN: Sorry, I didn't catch her name.

SUPERVISOR FULLER: Marie Capone.

GENTLEMAN: Thank you.

MS. JONES: My name is Vicky Jones. I've lived on Groesbeck Place... 12 Groesbeck Place for 14 years. My children...

SUPERVISOR FULLER: Vicky Jones?

MS. JONES: Jones. My children have gone to Elsmere, the middle school and the high school and they haven't taken the bus but I have on close to a dozen occasions had to call the school because of the actions of school bus drivers that would totally and completely illegal and unsafe. The buses go down that street so fast some times. One time... I live next to Mr. Zilgme... I was waiting to turn into my driveway... his mother was waiting to turn into his driveway... so I was behind her... a bus came up behind me and because they felt they should go faster, they went around me and almost slammed her in the side. I called the School District. I've called the School District at least a dozen times about school bus drivers going through red lights at the Four Corners and other things. I find that the bus drivers in town... some of them are very unsafe and they drive way too fast, especially with small kids on the street. And, I think having the street open like that is going to make them go faster. And, I totally disagree with this idea of not having parking on that side of the street. I think it is going to make them go faster.

The other reason that I feel it should not happen is that I think it's going to make property values on my side of the street go down. Who's going to want to buy a house where they can't even park in front of their own house? Why does it have to be no parking at all? Can residents park there? I should be able to park in front of my own house. If I have company, where do I put them? I have to tell them what park over in Elsmere. Park down where Fowler's liquor store used to be. What do I do with my company? I have no place to put them.

Possibly something could be worked out with a parking sticker or something you put on the dashboard. I also feel that although one of my son's did go to... has gone to Dr. Giombetti's for several 7 years and I do value him as a neighbor, I feel that as a business he should have his own parking lot. His patients should not be parking on the street. He... it's a business, he should be required to have sufficient parking for his business. I totally disagree with us having to pay and not being able to park on our side of the street because he's running a business in a residential area.

MRS. CAPONE: If you have to deal with the school, call the...

SUPERVISOR FULLER: Excuse me, Marie...

MRS. CAPONE: and ask to speak to Nancy Westcott.

MS. JONES: They have it set up... they haven't done a thing... they never gave me a call back... they never said thank you.

MRS. CAPONE: It doesn't matter... ask to speak to Nancy Westcott, she is the head of it.

COUNCILMAN LENHARDT: Lt. Beebe, the Traffic Safety Committee took this up evidently because someone requested it, I don't think you went out looking for this. I haven't heard anyone so far stand up in favor.

GENTLEMAN: Who requested that the Traffic Safety put it in?

COUNCILMAN LENHARDT: I have no idea.

MR. JONES: I am sorry, Steve Jones, 12 Groesbeck Place. Who requested the study? Was it a bus driver that that was his route? I would like to know a little more history and background of why this came up.

SUPERVISOR FULLER: I think that... I think there is a resident on the street that had called in concerned about the cars parked on both sides of the street. I think it is the Elsmere School that had called in or the bus garage because they were concerned about children cutting in and out of... between cars was their concern. I think there's been... I don't know what the Shoe Depot lot is if that's owned strictly by Shoe Depot.

COUNCILMAN DAVIS: The sign says for...

SUPERVISOR FULLER: Oh, I'm sorry, I didn't know...

COUNCILMAN DAVIS: The sign... there is a sign.

SUPERVISOR FULLER: There is a sign that says Shoe Depot parking only. I don't know... Dr. Giombetti I think...

DR. GIOMBETTI: I think... the previous owner and Shoe Depot own that lot. And, we agree with you, 100 percent, that we would like to have parking somewhere but they've always said whenever overtures were made that they get busy, their lot gets full, they don't want our people parking there. So, that has always been, unfortunately, an issue. That spot has been a doctor's office since 1938, Dr. Gainor and Dr. Austin used to work there. And, so, I think that the history of the office being there... it has been there for an awful long time and I know that the folks on Groesbeck have had to deal with this problem for a long time. It's not something we are happy about in any way, shape or form. One of the things that has sort of happened recently is that some of the residents have been staking out the green space in front of the house from the sidewalk out to the street and, unfortunately, some of our patients as opposed to heading a little further up the street, are just parking next to the green space which potentially is out in the street.

Potentially, making those bus drivers have to take a more circuitous route and perhaps a... the bus drivers are not happy with that and it would make it a little bit tight. I think, if you are going to propose restrictions, I think I agree with Mr. Zilgme 100 percent, 365 days a year is sort of silly. I think restricted time is not an unreasonable thing to do when buses are going through. We are actively seeking other space and have been for a couple of years so the folks on Groesbeck, I promise you we are trying. But, we want to keep our practice in Delmar. We have had a stack in Delmar for 32 years and we really would like to keep our practice in this community. And, commercial space in Delmar is hard to come by, not just space that meets particular requirements for a physician's office is exponentially harder to come by. So, it's been a long process trying to get the proper space.

But, obviously, this action would greatly impose upon our business and my fear is that because we haven't been able to get any other space, folks may have to park across the street on... across Delaware Avenue and then you've got mother's with several children trying to cross Delaware Avenue – talk about a tragedy waiting to happen. So, I have great concerns about the proposal and I think an amended proposal or a... something that's a little bit more equal is not unreasonable.

SUPERVISOR FULLER: Thank you.

MR. JONES: Could you tell me if the space... the green space between the sidewalk and the road is public or private property?

SUPERVISOR FULLER: Public.

MR. JONES: Public property?

SUPERVISOR FULLER: Yes.

MR. JONES: So, therefore, the people who are staking out that area to restrict people not to park on it truly are not correct in doing that.

SUPERVISOR FULLER: Right.

MR. JONES: They are claiming land that does not belong to them.

SUPERVISOR FULLER: Mr. Sagendorph our Highway Superintendent is here. That's the public property, it's not property that can be marked for no parking or staked out.

MR. SAGENDORPH: No, but if you go on any street in the tri-village area or any place in the Town, we have people putting out stakes, reflectors, rocks... whatever they can to keep their... the motorists off their lawns and it's just a fact of life.

MR. JONES: But, it doesn't make it right. It doesn't make it right or legal what they're doing on Groesbeck.

MR. SAGENDORPH: No.

MR. JONES: ...Place because we absolutely have a situation.

MR. SAGENDORPH: And, we received calls and I'm not saying from you residents, but we have received calls from other residents of Groesbeck Place over the years... can you fix our lawn between the road and the sidewalk it's all rutted up from the cars parked in here? We go down and make a quick fix of it because we know within a week or after the first rain after that, it's going to be the rutted mess that it was before we showed up. So, we do have that concern and someone mentioned the snow banks... I mean, we can push the snow back some but as you people know, we're pushing it from the sidewalk both directions... we're pushing it from the road to the edge of the road. And, once those banks are there and then

cars parked on both sides, they are hard pressed to get a school bus or worse yet a fire truck, ambulance or anything else down the road. And, that's what our major concern is.

MR. JONES: We've been very impressed actually with snow removal, snow bank removal on our street. It's not there very long.

MR. SAGENDORPH: Right.

MR. JONES: Often times, it's completely removed.

MR. SAGENDORPH: And, simply because of the traffic patterns that are there at this time.

MRS. JONES: I think one of the points that Steve is trying to make is the fact that... particularly in the summer... now, in the wintertime you are not supposed to park overnight on the street.

SUPERVISOR FULLER: Right on the street anyway.

MRS. JONES: But, whenever we do... look, we have several cars in the family so if we have to pull one out, we do the jockey thing. When we put one car out on the street, we pull it onto the grass in front of the house. But, a lot of these other people... God forbid that one tire should touch the grass and that's part of the reason that it's really being encroached upon because they're like trying to preserve this green grass... just... I have no problem with that being. I mean, I don't call and have somebody fix it or anything like that because you want to get your car off the road. But, I just don't think that we should have to not be able to park... I don't think that's a sentence... I don't think we should not be able to park in front of our own house. I find that... with the taxes that we pay and the neighborhood we live in... it's a residential neighborhood, we should be able to park on the street.

MR. JONES: Mrs. Fuller, would it be possible to amend that and say from 8 to 10 and then from 2 to 4 which would really be covering the travel time of the buses? That would allow Dr. Giombetti have his practice or having problems, knowing on a school days, summer is here.

SUPERVISOR FULLER: I'm sure anything is possible but I want to get through with the public comment before we then... the Board can discuss what options we have at this point. The one thing that does need to be made perfectly clear, I'm sure this Town Board never set out to hurt Dr. Giombetti's business in any fashion and on a personal note, he's my granddaughter's pediatrician, so I won't ... But, we are getting concerns. The school district has mentioned this so we couldn't very well ignore it but now we will see where we can head from here. Mr. Acquario I just saw you come in and this is the public hearing. I didn't know if you wanted to speak or not. I have your letter for the record.

MR. ACQUARIO: Well, I missed... sorry, I had to go to some other family affair and I've been there since 1979... So, I missed what anybody else said and all I'm saying is that when we first moved in there was some noise on the street that maybe we could do something about the parking since we were the new owners and I didn't know anything about what was going on and after a year that all died down and the next 22 years I have been there I haven't heard a single comment about parking problems. Now, all of a sudden, Henny Penny's been hit by an acorn and Cocky Locky and Turkey Lurky and all the way down the line there is a parking issue. I never knew about it before and I don't know about it now. And, that's all I want to say. I don't know about any problem.

SUPERVISOR FULLER: Thank you. Are there any other residents here who would like to speak? Do I have the position of those that are here, that you would like us to – if we need to go this route, to at least amend limiting the parking?

MR. ACQUARIO: Is this... will this be the end of this if the Town Board determines that you need to go that way?

SUPERVISOR FULLER: That sounds frightening, doesn't it?

MR. ACQUARIO: Yea, the end of my parking.

SUPERVISOR FULLER: I need to know, first of all, how the Board feels about this, which we will do right now. But, the other question I have is, what do I have to do legally. Do I have to set another public hearing and start this process all over or can I... we simply amend this public hearing?

TOWN ATTORNEY ALESSI: If we're going to amend the local law, it will have to be reset for a hearing with the amendments on it, noticed, etc. Essentially the same process as we are having now.

COUNCILMAN DAVIS: Sheila, I have some questions about the whole issue.

SUPERVISOR FULLER: Sure.

COUNCILMAN DAVIS: Dr. Giombetti, how long was the average appointment for one of your patients be?

DR. GIOMBETTI: Do you want me to come to the microphone?

SUPERVISOR FULLER: Sure.

COUNCILMAN DAVIS: Whatever.

DR. GIOMBETTI: Average... a sick visit is about 15 minutes and a well visit will take, say around 20 minutes.

COUNCILMAN DAVIS: Okay. We have... the reason I ask is we've restricted parking in other parts of the Town, for example across from the high school for say parking no longer than... is it an hour and half?... no more than an hour and a half. Would it be unfair to handle it in that way so that an individual is not able to park for longer than the period in which he is visiting his office and if it were an hour or even an hour and a half, that certainly would be more than what a patient would need.

DR. GIOMBETTI: It should be. However, I'm... during the busy days and we are running behind or... unfortunately we're in a business where emergencies come in and if an emergency comes in and it requires some critical care at that exact time, and one of the doctors will get tied up and absolutely will run behind and sometimes you just can't catch up. So, potentially someone could be there for a longer than that period of time. But, that's not an unreasonable proposal ... but that doesn't help out the residents any. And, again, if a resident wants to park in front of their house and they can only park for an hour and a half, that's not really going to solve ... for the folks

COUNCILMAN DAVIS: That was... one of the questions that I had related to the former question... was also in looking at the photos that Lt. Beebe gave us, one picture I counted at least 13... I think maybe 14 or 15 cars depending on where I looked... is it possible that those people are all at your office?

DR. GIOMBETTI: Have you ever seen our office? I don't think you could get that many bodies in our ...

COUNCILMAN DAVIS: So, these cars would not represent your...

DR. GIOMBETTI: represent some patients and some other folks. Sometimes there's overflow in the Shoe Depot if they are having a good sale or it's

tax free week. I suspect that when Destiny Threads gets in, they don't.... which is going to be where Fowler's was, they're going to have some overflow onto the street also I'm sure because they don't have a huge amount of parking there and ... sharing with Nancy on the other Maybe with that first ... potentially they would. But, there's a bunch of other ... that sometimes people park their car on Groesbeck, hop to Boston Chicken... go pick up their pictures at CVS... come back across the street hit the Shoe Depot and then drive off. Okay. Some of our patients probably do that too so I would expect some of those cars could be patients that, again, saw us, hopped across the street for lunch but I think that that circulation ... positive affect. It screws up parking but it... business is good for all the businesses on the corner.

COUNCILMAN DAVIS: One of the residents, I believe, proposed parking... no parking from say 8 to 10 and 2 to 4 which would be during the school hours. How would that impact first your practice and how would that impact you as neighbors?

DR. GIOMBETTI: We could... well the morning kind of Because that's when we see our staff and, you know, when there's a ... or something before or Periods where there's a bunch of kids that are sick, the numbers can get pretty big but again if one side of the street is parking, we would probably still be fine. The 2 to 4 would be okay because that is when we primarily do our physicals. So, the number of bodies that we have in the office is just not that many and the parking shouldn't be getting too difficult at that time. And, we can try doing that to our schedules to correlate to parking

COUNCILMAN DAVIS: I suspect that 8 to 10 might not be as busy a time as far as the shopping in the area because most of the stores aren't going to be open that early anyway.

DR. GIOMBETTI: Actually, 9 to... the only time that would really impact us would be sometimes in the winter we start at 8:30 but mostly in the summer we start at 9:15. So, it would be 45 minutes and I don't think that would have a negative impact on us. But, again, you got to The residents.

COUNCILMAN DAVIS: Mr. Jones.

MR JONES: Thank you. Do we really know what the bus route times are that go down Groesbeck? Before we amend anything, I think we should really understand what those times are. I don't think I've ever seen a bus go down that street past 8:30 or a quarter of nine. That might help...

SUPERVISOR FULLER: How about middle school or high school?

MR. JONES: You don't get much.

COUNCILMAN DAVIS: No.

SUPERVISOR FULLER: Because their buses would be earlier than the elementary schools.

LADY: Is there a.m./p.m. kindergarten at Elsmere? Because that would be the 12 o'clock split.

COUNCILMAN LENHARDT: Well, it's all at Slingerlands.

SUPERVISOR FULLER: Kindergarten is all at Slingerlands.

COUNCILMAN DAVIS: But those... at the Early Learning Center.

LADY: But I don't...

GENTLEMAN: You know.. some.... Also mentioned school days and to sum it up may not... we all

COUNCILMAN DAVIS: Right.

LADY: I don't think that the hour and a half would work either because say someone goes to see Dr. Giombetti, they do... they have their appointment as soon as they pull out somebody else is going to pull in. It's not going to help the buses because there is always going to be some cars there.

COUNCILMAN DAVIS: Right.

LADY: Because he's quite busy.

SUPERVISOR FULLER: Mrs. Acquario...

MRS. ACQUARIO: Yes... to apologize I'm late because of my mother's birthday party.

SUPERVISOR FULLER: Excuse me, we need you to come to the mike so we can...

COUNCILMAN LENHARDT: They can't hear you.

SUPERVISOR FULLER: So we can record your.

MRS. ACQUARIO: Okay. In all due respect, I apologize, I'm late and I hope I'm not being repetitive or boring, whatever. The bus is of a concern. In some ways, I have not noticed it to be a problem over the years, 22 years but recently... past couple of months, it has been a bit of a problem. I've kind of looked on the street. I live on 3 Groesbeck and I've looked out on the streets and the amount of cars on the streets in the morning could be anywhere from 4 and the most I have seen is 14. Now, I don't know who owns the cars. So, there is a little congestion going on but when it gets to be 3 o'clock or whenever the buses circle through, I was wondering -- gee I wonder why can't they exit on Herrick and I know why they can't because there's no red light there. And, I know that it is an economical thing to ask for a red light to be there between the hours of 2 and 4 to buses to exit out of Herrick onto Delaware. And, we probably have to ask the State and so forth for that to be a period of time when buses could exit right from the school to Delaware Avenue instead of traveling all around through the Groesbeck area and down into that little congested area where there are say let's say 8 businesses now at that intersection. Eight little intimate businesses on that corner and there's probably 30... you know, tucked in between and this is a commercial residential area and we moved there because we wanted to walk to the store and walk to our doctor. We happen to luck out that he leased property from us or whatever. But, that was the point of living there, it's like a European village where you live with your neighbors and your businesses and we can get along. So, I believe that there can be a solution to this. I don't know that we have an answer tonight but I would like you to consider the bus situation... probably a red light wouldn't work but perhaps a school guard or a policeman allowing the buses to exit... they're right there. To circle around and come around Groesbeck, this big bus, on a neighborhood street just seems... well, it's practical because you are avoiding employing somebody to stand there and you are avoiding paying for another red light, whatever. But, please take that into consideration because that is the situation that has arisen within the past couple of months for some reason. Okay. So, that's pretty much what I would like to comment on. Thanks.

SUPERVISOR FULLER: Thank you. Tim, we have a crossing guard there now, don't we?

COUNCILMAN DAVIS: Right.

LT. BEEBE: Yes.

COUNCILMAN DAVIS: That crossing guard just handles the pedestrian traffic.

LT. BEEBE: Correct.

SUPERVISOR FULLER: Yes, I knew that. I was just...

COUNCILMAN DAVIS: Is it possible for a crossing guard to handle bus traffic as well?

LT. BEEBE: Not likely. No.

GENTLEMAN: I think our neighbor brings up an excellent point in that Herrick has no residential areas on either side of it from the school to Delaware Avenue, where the buses go through the next block, Groesbeck which is all residential. It appears that it could be a traffic circulation problem... I'm not sure what the solution is but I think it may be a little premature to amend anything right now. That's my humble opinion. And it may deserve a... warrant more study as far as what options may be available to the Town to solve this problem if there is indeed a problem.

SUPERVISOR FULLER: I know that at the Elsmere School the flashing light, I think it took probably 10 to 12 years before the State ever agreed to bring that in and the light now at CVS that was another long... trying to get a light there. So, I know having the traffic light at the Elsmere School is probably just about impossible so...

GENTLEMAN: I think every place 2 lights that close together... probably impossible.

SUPERVISOR FULLER: Yes, they would never...

GENTLEMAN: Because of how traffic bottlenecks. But, there may be other solutions.

COUNCILMAN DAVIS: Sheila, is there any way to maybe work with Superintendent Les Loomis or the principal of the Elsmere School as well.

SUPERVISOR FULLER: Just ask to...

COUNCILMAN DAVIS: They certainly are involved in this issue, it's not just the Town Board. It's the school district as well.

SUPERVISOR FULLER: True.

COUNCILMAN DAVIS: It needs further review.

SUPERVISOR FULLER: Yes. I think we are all in agreement that we need to go back to the drawing board on this. In order to come back to this, should I table it for this evening or close the public hearing?

TOWN ATTORNEY ALESSI: Close the public hearing.

SUPERVISOR FULLER: Like a motion to close the public hearing.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to close the public hearing at 8:30 p.m. The motion was passed by the following vote:

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

Deputy Town Clerk

Supervisor Fuller convened the regular Town Board meeting following the close of the public hearing. She indicated everyone will be notified if this is coming back when it is on the agenda. She said she will place a call to Dr. Loomis and discuss this with him. She said there is time until school resumes to take another look at this area.

Councilman Lenhardt said just for the record, when there is a public hearing and everyone speaking is opposed to the proposal that is in front of him, he has a problem endorsing it.

Hearing began: 8:35 p.m.

SUPERVISOR FULLER: The next public hearing is to consider the proposed Local Law amending Code of the Town of Bethlehem, Vehicle and Traffic, Stop Intersections, stop sign on Hamilton Lane at intersection of Hannay Lane, Glenmont. This also was rescheduled to this evening. We tabled it on May 9th. May I have a motion to remove it from being tabled?

The motion was made by Mr. Plummer and seconded by Mrs. Davis to remove from table consideration of the proposed Local Law amending the Coe of the Town of Bethlehem, Vehicle and traffic, Stop Intersections, stop sign on Hamilton Lane at intersection of Hannay Lane, Glenmont. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

Is there anyone here who would like to speak? This was a request from the neighborhood, Hannay Lane... Greg, do you have a copy of that still?

MR. SAGENDORPH: Yes. It was actually a request from a Mr. and Mrs. William Beach for just different signs that they would like installed. The Beachs are representing 5 families that live on Hannay Lane. That is zoned either commercial or industrial. There's some large construction companies. There's some trucking companies. And, they've requested a children at play sign which meets all the criteria... the children at play sign has been installed. It is just a warning sign. They wanted additional speed limit signs. We can't lower it any less than 30 miles per hour which is the Town speed limit. We put up additional speed limit signs. They've requested a no outlet sign. We're in the process of putting that up now.

They've also requested a stop sign at Hamilton Lane where it intersects with Hannay Lane. Now, Hannay Lane is a dead end road that ends at the Sprint Towers. It's either cellular towers or microwave towers, whatever. Hamilton Lane at the end has a commercial business, it's Hamilton News. And, there's a lot of vans that deliver your daily newspapers that come out of there. And, everybody wants the news fast and everybody wants the news fast and I think that's where a lot of the problems are coming from. So, they're requesting a stop sign just so there is a designated right-of-way at that intersection and to maybe slow the traffic coming out of Hamilton Lane onto Hannay where they have to make a right hand turn.

COUNCILMAN BURNS: There's no sign there now of any kind?

MR. SAGENDORPH: Because we had talked to 3 out of the 5 families represented here and they all said how close of calls they were having with these trucks, we went ahead and put up the stop sign telling everyone that it was not enforceable. It has to be adopted by the Town Board after a public hearing but when I heard the tales and, like I say, each individual called independently of each other. We went ahead and put the stop sign up. So, to answer you Susan, there is a sign there now. It is not enforceable.

SUPERVISOR FULLER: Okay, thank you, Greg

Is there anyone here? No. Okay.

COUNCILMAN DAVIS: This certainly isn't the average street in Town where you have a lot of neighborhood traffic and traffic in and out as far as other neighbors. I mean, I've driven back there and as you say, the only... what 5 houses?

MR. SAGENDORPH: Yes.

COUNCILMAN DAVIS: Five houses and I did notice the number... a lot of play equipment so there are children and it seems to me if the neighbors want it back there, they're the ones who probably understand it better than anybody.

MR. SAGENDORPH: Yes, the request says there's a total of 13 children

COUNCILMAN LENHARDT: That was one of my plow routes this past winter.

MR. SAGENDORPH: Yes, it was.

COUNCILMAN LENHARDT: Very familiar with that area.

MR. SAGENDORPH: You didn't park at the end of the street for any length of time did you?

COUNCILMAN LENHARDT: We kept moving, trying to keep up with the snow.

SUPERVISOR FULLER: Okay, may I have a motion to close the public hearing.

The motion was made by Mrs. Davis and seconded by Ms. Burns to close the public hearing regarding a proposed Local Law amending the Code of the Town of Bethlehem, Vehicle and traffic, Stop Intersections to approve placement of a stop sign at the intersection of Hamilton Lane at the intersection of Hannay Lane.

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

Deputy Town Clerk

Supervisor Fuller reconvened the regular Town Board meeting following the close of the public hearing. She asked for a motion to approve the adoption of the Local Law regarding the installation of a stop sign on Hamilton Lane at its intersection of Hannay Lane.

The motion was made by Mrs. Davis and seconded by Ms. Burns to approve the adoption of Local Law No. 6 of 2001 amending the Code of the Town

of Bethlehem for installation of a stop sign at the intersection of Hamilton Lane at Hannay Lane, Glenmont. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

The following item was a recommendation from Bruce Secor, Commissioner of Public Works, pertaining to a Proposed Water District Extension on Old School Road, Selkirk. Mr. Secor noted he put a memorandum together for the Board and delivered copies of the memo to all the residents on the street, noting he would not bother to read it. He said this was basically tabled. The engineer's map, plan and report was put together and presented to the Board and it was tabled on that evening, according to Mr. Secor.

Mr. Secor said a public hearing was not scheduled up until this point in anticipation of going back and looking at some additional information and following up on some alternatives. He said based on that meeting, he spoke with CSX Railroad and explained that in the memo. He said that is not an alternative that can be pursued any further, as far as, trying to tie back into the railroad. The big reason, according to Mr. Secor, was to supply the water from the reservoir supply on Speeder Road, versus the supply on Creble Road which comes from the Clapper Road plant and now goes to the industrial area.

Mr. Secor noted the second thing was to look at the possibility of getting the water main extended on Speeder Road about 8/10s of a mile so again the road could be supplied with water from the reservoir. He said that has an estimated cost of about \$200,000 to \$300,000. He said the cost for simply putting the water on the street is approximately \$70,000. He said unless some outside money can be found, it does not appear that that is a viable alternative. He said he met with CSX and they do not have any plans at this time to do anything on Speeder Road that would help with the construction cost.

Mr. Secor said they also looked to see if there were any programs that they could apply for. He said there are a lot of programs out there but unfortunately, there is not an identified one for this project.

Mr. Secor said basically what he is back to is whether he should further consider the extension of the district or simply not pursue that. He said at the end of the memo he talked about allowing the people who live at the end of Old School Road near Creble Road to hook up as other people along both Clapper Road and Creble Road have done in accordance with the existing policy. He said he needs some direction from the Board.

Supervisor Fuller thanked Mr. Secor and noted there were some residents in attendance. She asked if they would like to speak to the Board. Peter Anderson, residing at 31 Old School Road, mentioned they bought their house in 1976 and have not been able to drink the water. He said the water is plentiful but of poor quality. He noted the neighbor on the hill just up from his house is hooked into the Clapper Road supply. As far as, Mr. Anderson knows, he has not had any problems with that. He said his property borders the water district... about 100 yards from the nearest fire hydrant. He said he is asking for permission to hook in as his neighbor has done by essentially running a 2 inch line to the house. He said he knows there were a few other people in attendance who would like to speak. He said it is generally the last portion of Old School Road before it meets Creble Road. He said the people down from him do not have an interest in the Clapper Road water and I don't really think they should be forced into paying for something they don't want but the residents on his end of the road are all in favor of it and are willing to pay the price to get it.

Councilman Plummer asked Mr. Secor if Mr. Anderson could be hooked up without creating a water district. Mr. Secor said he could be, noting the standing policy right now is that people along Creble Road – indicating he believes this to be a slight extension of that – can be hooked up. He said this has been done all along the street including Mr. Roark who lives next door to Mr. Anderson.

Councilman Plummer noted the resolution was calling for the creation of a Water District. Mr. Secor said if he wrote it that way and said it is misswritten. He said at the top of the page he noted that if the Board did not wish to go forward with an extension of the district to grant the residents permission to hook up. Mr. Secor said he was presenting this to the Board for direction.

Supervisor Fuller addressed the fact that the Clapper Road plant water has not been given to the residents unless they request it. She said this policy is not being changed. Mr. Anderson said he is requesting this and knows there are others who will be requesting permission to hook-up to the water also.

Councilman Plummer asked if the residents on Clapper Road who are using the water, had to come before the Board. Mr. Secor said at the time this was set up and the Board had stated as the general policy that anyone who came in was issued a tap if the water main went right in front of their houses. He said the Board indicated anyone who wished to hook up could do so and the residents have been granted water. He said this is a slight extension or expansion of that and again, if it is the Board's decision to do that, that is fine.

Supervisor Fuller asked if the people on the road are not getting the water or do not want it, whether or not they have to pay. Mr. Secor said not under this scenario. He said this would be a private service line just running to Mr. Anderson's house and it would be a separate private service line running to the people on the other side. He said it would be just the residents expense. It would be no expense to anyone who is not connecting. Councilman Lenhardt asked if that would satisfy all the people who have requested connection to the supply. Mr. Secor said there may be one or two people who would not be included in this.

Councilman Lenhardt asked if this option would effectively eliminate those people from ever getting enough assessed valuation to have a water extension to their residence. Mr. Secor said not really because they are not putting these residences in the district. He said, again, the policy is that those hooked up as out of district customers, sign an agreement that at such time as the district is extended they will join the district. He said theoretically you have to be in the district. Councilman Lenhardt asked if they would be paying out-of-district rates. Mr. Secor said that was correct, noting they would pay double the water rate. He said, however, what they are really doing is giving them service in anticipation of the district being extended some day. He said theoretically you have to be in the district to get service.

Mr. Secor said he came to the Board for permission because he did not feel he had the authority to say who can have water and who cannot. He said there is the potential that this will come into the district at some point.

Mr. Secor said the only down side to this proposal is that the water main -- the ductile iron pipes or the big pipes from the reservoir are all the way to this point because in general they have held to a position that in order to get water, the district had to be extended. He said other wise there would be a bunch of little plastic lines running all over and no one would ever get the full service in. He said this is kind of a unique area. He said this is served by a 20 inch main and noted there is no way the residents can afford to put in a 16 or 20 inch main. He said that usually goes with a commercial or industrial use. He said they proposed to put an 8 inch pipe in with the idea that if something else changed they would have it paid for by someone else.

Councilman Lenhardt noted he is sympathetic to anyone who is on a well because he grew up in a house on New Scotland Road that was on a well until his mid teens and every July/August with the weather they had problems. He said he would be in favor of a public hearing to hear from the residents who are interested.

Councilman Davis asked if the people beyond the neighbors who could hook-up, would be able to hook in if they paid for the pipe. Mr. Secor said he would come back and talk to the Board if someone else along the street wanted to hook up. Mrs. Davis said it is not as if they are discriminating against them. Mr. Secor said no and noted the only problem would be for the apartments. He said he does not know what service they would need but to run a small plastic line for apartments is not going to work.

Councilman Burns noted the South Albany Airport is included according to the information and asked if it was way down the road. Mr. Secor noted their driveway comes right out onto Old School Road very near to the intersection of Creble Road. He said their property runs right out to Creble Road. He noted the building sets back in quite a ways.

Councilman Lenhardt asked if the petition was a legal petition or will the residents have to fill out a specific form. Mr. Secor said there is a legal petition that would have to be drawn that would have to be accompanied by the engineer's map, plan and report. He said the problem is that it is the chicken and the egg routine. He said if you have enough on the street, you have to have an engineer's map, plan and report. The engineer's map, plan and report has to be an attachment to the legal petition that gets circulated, according to Mr. Secor. He said he circulates a letter of interest so we know whether or not to go forward.

Councilman Lenhardt noted since he has been on the Board it has been the policy, if a district extension is going to take place over 50 percent of the assessed valuation in that district has to agree to want the extension. Mr. Secor said the preliminary indication from this area was about 75 percent of the assessed value. He said this represents the registered voters.

Mr. Secor said it does not make sense to go forward if it's the Board's desire to simply give relief and then deal with this at a later date if something happens on Speeder Road or from a different direction. Councilman Plummer said it is his view to support the use of this water source for commercial/industrial purposes as much as possible and does support the residents who wish to hook up and believes the Board should continue to do that. He said he would not support the creation of a water district. He said it has been the policy in the past and he supports that policy.

Councilman Davis said again, that was because she did not feel that people who don't want that water should not have to pay for it. She said she thinks they are in agreement on that.

Mr. Anderson asked if the Board would act on this proposal at the meeting. Supervisor Fuller said they would, noting they decide to either offer it to him and the few others that have requested it or they make a decision to set a public hearing for a district water extension. Mr. Anderson said his biggest fear is that the area contains good neighbors and he certainly does not want to push anything on the neighbors that do not want it. Mr. John Curley noted he appreciates that, stating he lives at 50 Old School Road. He said he just wants the Board to know that they are opposed to the water district. He said they do feel hooking up to the Creble Road line is a good alternative.

Supervisor Fuller thanked everyone. Councilman Lenhardt said he had a question and a comment. First, he said the comment was that whether or not somebody connects to the water for drinking purposes, there is still fire protection that is increased by water extensions. The question, Mr. Lenhardt said, was if the proposal will cost the residents more to connect than the proposed extension. Mr.

Secor said it will not because they will not be dealing with ductile iron pipes. He said it should cost less because you are dealing with smaller diameter plastic lines and individual services. He said part of the complication is if ductile iron pipe goes down the road, the folks will still have to come out and pay for a tapping fee which is \$750 and covers the cost of the meter. He said everything is going to be there whether or not the ductile iron pipe goes in. He said the cost involves the plastic line and the tapping fee which he thinks will be cheaper for the individuals. Councilman Lenhardt thanked Mr. Secor.

Councilman Burns asked for clarification as to whether they were talking about the south Albany Airport, 3 homes and then the Anderson parcel. Mr. Secor said that was correct, noting they are asking for 5 taps to be approved.

Supervisor Fuller asked if there were any other comments. She said she thinks there needs to be a note amending the item on the agenda. She asked Mr. Secor to give the Board the correct wording for the item. Mr. Secor said he thinks for purposes of the item on the agenda, they did discuss whether or not to do a district extension. He said he thinks in terms of the action of the Board, it would be to decide not to go forward with the district extension and grant permission for these 5 taps as out-of-district services. Supervisor Fuller said they can then take a vote.

Councilman Davis asked Mr. Secor if that meant that if someone came back or approach him later and wanted to connect that he would have to come back to the Board. Mr. Secor said that was correct, noting this is in addition to those residences on Clapper and Creble Roads. He said this is including some of Creble Road.

Town Attorney Alessi recommended that the item on the agenda be amended so that there is not a question before the Board on a water district extension at all. He recommended a motion to amend the item on the agenda and to have the item be pointed toward a motion to grant the relief to the individual residents that have been identified.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to amend the agenda item and move to grant relief to only those individual residents who have requested that water be provided to their homes.

Councilman Lenhardt said he wished to see the motion amended and done as 2 motions – one as the amendment of the agenda and a second one granting the request of those residents present. Supervisor Fuller said she is a little confused. Attorney Alessi said they are accomplishing the same thing. He suggested that the motion be withdrawn and that the new motion be the motion on the table.

Councilman Davis withdrew the motion and Mr. Plummer withdrew his second. The motion was withdrawn on the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

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The motion was made by Mr. Lenhardt to pursue looking into a water district extension as proposed in the engineer's documents and by Bruce Secor. There was no second to the motion and it failed.

Supervisor Fuller asked for a motion to go back where this was started and said it was a motion to amend the item on the agenda to reflect and provide for water for 4 residences and the South Albany Airport who have requested the Town water.

The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to amend the item on the agenda to reflect and approve connection to the Creble Road

line for 4 residences and the South Albany Airport. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

The following item was a request from Commissioner of Public Works, Bruce Secor, for approval to go to bid for purchase and installation of MOSCAD Equipment for monitoring/control of water distribution facilities and wastewater pumping stations. Mr. Secor noted there is a current system, SCADA, which is a data acquisition system that runs the computers. He said they are using telephone lease lines and they are expensive, therefore, this is a proposal to switch over to a radio system. He noted this is included in the current budget and the system is expected to result in a cost savings.

Questions were raised regarding the expense of the lease lines. Mr. Secor explained the lease lines are a direct line and to maintain the stations the system sees this as a loop, however, they were finding the alarms were not operational. He noted this is unacceptable and said the new system is supposed to be more reliable and less expensive. Cost of the units was also questioned and Mr. Secor said the cost includes installation because it takes a special contractor to install these units.

Question was raised in regard to the number of units. Mr. Secor noted 6 would be replaced at this time noting there is a total of 36 pumping stations, with the plan of buying a few each year to stay under the requirement for bidding. He said this would take too long to switch them over. He said he is planning to budget more money to go forward with the replacement program. He said to buy 1 or 2 at a time would take too long to do away with the lease lines.

Question was raised with regard to the information about contact with other areas. Mr. Secor explained that some places are too expensive to run a phone line to and noted North Bethlehem area requires a line being run from Guilderland to downtown Albany to Delmar to North Bethlehem. He said the bill is enormous and therefore, he does not do those. He said it is one price with these units.

Question was raised as to what MOSCAD stands for. Mr. Secor said Motorola is the first 2 letters and the rest is the SCADA, Supervisory Control and Data Acquisition System. He said they are standardizing on these.

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

WHEREAS, the Town desires to advertise for bids for the purchase of MOSCAD equipment for use by the Department of Public Works, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 30th day of May, 2001 and that bids be received up to 3:00 p.m. on the 12th day of June, 2001 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

The following item was a recommendation from Commissioner of Public Works, Bruce Secor, for water conservation plan/watering restrictions. Supervisor Fuller said the restrictions are watering of lawns between 7 a.m. and 9 a.m. and 7 p.m. and 9 p.m. Mr. Secor said he changed the recommendation. He noted the

reason they did that was the first memorandum was what was used over the years. Then Mr. Secor said he called other communities and found different times. He said he changed his recommendation to watering from 7 a.m. to 9 a.m. and 7 p.m. to 9 p.m. He said the second part is rather than setup the no watering between 10 to 4 and then ask for the 7 to 9, he felt they should just go to the second stage. He said it is just to avoid confusion.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to allow sprinkling only between the hours of 7 a.m. to 9 a.m. and 7 p.m. to 9 p.m. as recommended by Commissioner of Public Works, Bruce Secor. The motion was passed by the following vote:

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

The next item was a request from Building Inspector, Kevin Shea, for approval of a Trailer Permit outside Trailer Camp for Delmar Village. Supervisor Fuller said this a construction trailer at Fox Hollow Green.

The motion was made by Ms. Burns and seconded by Mr. Lenhardt to approve the issuance of a Trailer Permit outside Trailer Camp for Delmar Village as requested by The BH Group, Inc., c/o Frank Barbera, Albany, NY for Delmar Village. The motion was passed by the following vote:

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

Mr. Robert Alessi next announced details of the Bethlehem Water Supply System settlement agreement. Supervisor Fuller said she was sorry the Library channel was not in attendance to cover this information. She said the Times Union and the Spotlight have the information and the complete agreement is in the Town Clerk's office and the Bethlehem Public Library for review.

Mr. Alessi said there was a project years ago to construct a water supply system in the Town of Bethlehem. He said the promise was that there would be 6 million gallons per day and the reality is that we got a lot less. He said there was a lawsuit commenced against the 2 entities that were involved in the design and construction of the system. He said there was a considerable amount of pre-trial litigation negotiations. He said negotiations manifested in a settlement agreement which Supervisor Fuller referred to.

Mr. Alessi said the key aspects of the settlement agreement include at its core, the provision that the Town will be guaranteed that it will get the 6 million gallons per day that it was promised. He said the 2 defendants are part of the settlement agreement. He said the way the settlement agreement works is that the system has 2 primary components, the existing infiltration gallery and then there is going to be a supplemental system consisting predominantly of directionally driven wells south of the infiltration gallery. He said Earth Tech, a major company that was not involved at all in the prior construction, is going to come in and do testing, design and if the permits are issued construction of the supplemental system. He said they will also seek to improve the existing infiltration gallery.

Mr. Alessi said the way it is going to work is that Earth Tech will apply for permits for a test well that will eventually become a production well. The idea is to make sure that in the beginning there is a reasonable likelihood that this system is going to work, according to Mr. Alessi. He said if that test well is successful, Earth Tech will move on to design the entire system. He said that system has to be permitted so there will be a series of permits that will have to be obtained. He said

assuming the permits are obtained, Earth Tech will be fully obligated for 13 and ½ years to supply at a minimum 6 million gallons per day of water to the Town. He said it is a 13 and ½ year warranty, virtually unprecedented in this type of public works project. Earth Tech stands behind it, it is a \$650 million per year revenue company, Mr. Alessi stated. He said they have substantial resources. He said no one who worked on the original design and construction of this system will be working on the remediation. He said these are engineers and experts from as far away as New Hampshire and Detroit Michigan who have been called in and will be working on this.

Mr. Alessi said very importantly, the Town will not pay \$1 in capital cost for this project. The amount of work that is going to be done, Mr. Alessi said, will be substantial but there is a contingency in the settlement agreement. He said that if the tests do not work, the system does not work, the litigation is not terminated it is merely suspended. He said they will go back into court and pursue these defendants as vigorously as they did in the beginning and resulted in this settlement.

Mr. Alessi said another important aspect of the settlement is that the Town will receive in addition to the work that is going to be done, a settlement payment of \$550,000. Finally, if the system is built as expected and at any time the system is not capable of producing 6 million gallons per day even though we are not using 6 million gallons per day – i.e. using 4.5, that's all the demand is, but the system at that point cannot produce 6 million we will either get the water, the difference between 4.5 and 6 or we will get the value of that. – and, that is important because it is important for the Town to be able to market the ability of this system to produce 6 million gallons per day whether or not we have a current demand for it.

Mr. Alessi said with regard to the way the process is going to go as he described it, it will be a public process. These permits that will have to be obtained will be authorized by the Town Board, according to Mr. Alessi, so that there will be further open meetings with regard to that process.

A word about the documents, Mr. Alessi said the Supervisor referred to the document and he wished to say a word about them noting there are appendices. He said there is a document called an engineering report Proposed Design of Supplemental Well System. He said settlement agreements, seldom ever have these in them. He said they asked for that, this is not an engineer's report per se for the design and construction of the system. He said it is just to get a commitment from Earth Tech as to generally what they are going to do. He said Earth Tech has been out in the field and expended about ½ million dollars in investigating this design and has received information that certain residents have commented on – for example, historic information about what may be there was provided to them, Earth Tech has sent divers into the river to look at bulkheads, to look at other potential structures that may be impediments to what is going to happen – so there's been a fairly high level of investigation already.

Mr. Alessi said in terms of the expectation of time lines, as to when we think this is going to occur, the agreement requires the parties (Earth Tech predominantly) to use its best diligent efforts which means it has got to get moving very fast, cannot lag on this project. He said they expect it will take 60 to 90 days for that test well, the first stage, to be approved and then they expect 9 to 18 months after the test well is developed – takes a couple months to get the results of the system – for there to be a determination on the permits and for construction of the system to be approved.

Mr. Alessi said they continue to welcome comments from the public on this process as it goes through. It has been a fairly open process so far, according to Mr. Alessi, with regard to the water system and again, these public permits will continue to be submitted as they go through the process.

Mr. Alessi said the agreement is over 50 pages long but that is a nutshell of the document. He said he encourages anyone who has any specific questions or comments to look to the specific terms of the particular agreement.

Supervisor Fuller thanked Mr. Alessi and asked if there were any questions. Mr. William Kelleher asked Mr. Alessi if they do not obtain the necessary permits from the Corps of Engineers and DEC and the State Health Department and the Department of State – noting those are the most important permits they must obtain – that essentially this agreement is void and we can pursue the original litigation. Mr. Alessi said that was correct. Mr. Kelleher further noted he had a statement.

Mr. Kelleher said this was a very, very difficult case and he has never seen a case like this. He said quite frankly, he did not think there was any possibility that the Town could hook Rust and now Earth Tech. He congratulated Mr. Alessi's law firm for doing this. He said the law fees are very hard to stomach for the whole Town but, believe him, it is worthwhile. He said this will not work and he is going to do everything in his power to see that the Department of Environmental Conservation, the Department of Health and the Corps of Engineers fully understand the history of Schermerhorn Island area. He said he is making a report which will take a long time to write. He said there is a solution, not saying it is a possible solution but that there is something that should be looked at. He said the Schermerhorn Island area should be rejected completely as it was by a very competent engineer back in 1978, George Myrick, who knew what was there. He said the Town will be very, very surprised when he writes the history of the Island area.

Mr. Kelleher said there is a possibility that we could get a decent water supply of good quality in the Town park. He said in the old ancient river bed that was about 500 to 1000 feet west of the present river. He said that area was not mined for gravel like the Schermerhorn Island area was. He said it was not filled with sewage sludge like the Schermerhorn Island area was, nor do you have to worry about the.... piling caving in like you do at the island. He said there is a difference between the bulkhead and the.... piling.

Mr. Alessi thanked Mr. Kelleher. He said they have passed along the information that he provided during the litigation which provided information. He said it was helpful to the Town and that information was passed to the engineers. He said they welcome his continued comments with regard to the proposal and will pass that along as well. He said the approving agencies, he is sure, will take that into consideration with regard to the proposal.

Mr. Alessi said the Town is protected in any way this turns. He said if the system works as they expect and hope it will, then the Town gets what it was owed. He said if the system does not work, the defendants have proven themselves out of their case – that being that the system could have be rebuilt successfully. He said they will go into court and they will reestablish the position and move forward and ask for money damages. It is a hope and expectation, Mr. Alessi said, that through the engineering that this system will work and that they will move on from litigation into water production which is what they wanted to do to begin with. He said, again, he welcomes continued communications and he will forward them on to the design engineers.

Supervisor Fuller thanked Mr. Alessi. She said certainly the Town Board is appreciative of all of the effort that Mr. Alessi and Mr. Vince Esposito and she was sure several others in the law firm have put into this very long, difficult process really from start to finish prior to litigation.

Mr. Alessi said in regard to the legal fees, there is a settlemental payment of \$550,000 that does not really have a cost to be attached to and the Town gets that money and can apply it to things like the legal fees that are expended for this litigation.

The next item was to acknowledge receipt of Conditional Approval of Final Plat for the Carriage Hill Subdivision, Jericho Road, Selkirk, from the Planning Board for information purposes.

The following item was to approve the Town Board minutes of May 9, 2001, May 14, 2001 and May 17, 2001.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve the Town Board minutes of May 9, May 14 and May 17, 2001 as submitted. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

Supervisor Fuller asked if anyone wished to address the Board. No one addressed the Board.

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

The motion was made by Mr. Plummer and seconded by Ms. Burns to approve adjourning to Executive Session to discuss negotiations. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

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The motion was made by Mr. Lenhardt and seconded by Ms. Burns to adjourn the regular Town Board meeting at 9:30 p.m. The motion was carried by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

Absent: None.

Deputy Town Clerk

EXECUTIVE SESSION

There was no formal action taken at the Executive Session.