

TOWN BOARD
NOVEMBER 9, 1994

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
Frederick C. Webster, Councilman
George Lenhardt, Councilman
Freeman T. Putney, Councilman
Doris M. Davis, Councilman
Bernard Kaplowitz, Esq., Town Attorney
Kathleen A. Newkirk, Town Clerk

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SUPERVISOR FULLER: Good evening and welcome to a meeting of the Bethlehem Town Board. Very special welcome to our Scouts who are here this evening from Troop 58, who are working on their citizenship badge. Welcome. First order of business this evening is a public hearing on the 1995 Assessment Rolls for our Sewer District. I would ask the Clerk to read the call of the hearing.

TOWN CLERK NEWKIRK:

PUBLIC NOTICE
TOWN OF BETHLEHEM

WHEREAS, 1995 Assessment Rolls have been prepared for the Bethlehem Sewer District and it is necessary to hold a Public Hearing with reference thereto.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hold a Public Hearing with reference thereto, at 7:30 p.m. on Wednesday, the 9th day of November 1994 at the Bethlehem Town Hall, and

BE IT FURTHER RESOLVED, that the Town Clerk be, and she hereby is authorized and directed to publish a notice of such hearing in THE SPOTLIGHT, a newspaper published in Albany County and having a circulation within the Town of Bethlehem, on the 19th day of October 1994.

The foregoing Resolution was presented for adoption by Mr. Lenhardt, seconded by Mr. Webster and was duly adopted by the following vote:

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

Noes: None.

Dated: October 12, 1994

Public
Hearing
1995 Sewer
Assessment
Rolls

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State of New York)
County of Albany)

CAROL STUART of the Town of Bethlehem, being duly sworn, says that she is the Advertising Coordinator of THE SPOTLIGHT, a weekly newspaper published in the Town of Bethlehem, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said THE SPOTLIGHT ONCE A WEEK FOR 1 WEEK consecutively, commencing on the 26 day of Oct 1994.

/s/ Carol Stuart

Sworn to before me this 26
day of Oct 1994.
/s/ Kathryn Olsen
Notary Public, Albany County

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STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on Oct 26, 1994, a Notice of Public Hearing, a copy

of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Kathleen A. Newkirk
Town Clerk

Sworn to before me this
9th day of November 1994.
/s/ Catherine T. Picarazzi
Notary Public

SUPERVISOR FULLER: May I have a motion to indent the Notice of the Public Hearing.

The motion was made by Mr. Lenhardt and seconded by Mr. Webster to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

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

SUPERVISOR FULLER: Motion carries. Judi, if you would like to give a brief overview for everyone.

MRS. KEHOE: In each of these 5 books, this is the total collection of all the properties that are within the Town Sewer District and in the '95 budget, we have taxes to be raised of about 2.5 million dollars and what these rolls do, essentially is to detail these taxes to be paid by each of the individual parcels within the Sewer Districts that will make up in total that budgeted number in the '95 budget. There are about 30 different tax rates that are included within here and those rates will vary depending on where the properties are located, whether you are in extension 8 or extension 10, how much the front footage charges are, etc. So, this essentially, tonight's public hearing is a chance for people if they have reviewed these rolls already and have questions about the front footage rates or feet that are listed in here or their assessed values on their properties, it would be a chance for them to question that. But, to my knowledge, there hasn't been any significant changes in the rate. The rates, in fact, are going down in the proposed budget about 3 to 4 percent across the board. So, that is the information that is contained in here. If there are any questions, I would be glad to try to answer them on behalf of Bruce.

COUNCILMAN PUTNEY: Question? The different rates are according to the bond issues on each of the extensions are they?

MRS. KEHOE: That does affect them, yes, because each of the extensions were constructed and financing was normally obtained and then the rates reflect what is required to pay off that year's principal and interest.

SUPERVISOR FULLER: Any other questions from the Board? Thank you, Judi. Are you... do you have questions?

MR. DAVIES: Yes. Shall I use the microphone?

SUPERVISOR FULLER: Sure.

MR. DAVIES: I have about 8 questions and maybe a couple of follow-ups. The Supervisor's message of September 28th identified the following sewer charges for the Delmar/Elsmere Sewer District, \$.46 per thousand dollars of assessed valuation as a property tax, \$.51 per thousand dollars in the extensions. And, what they refer to as the Delmar/Elsmere water or sewer surcharge, actually it is a sewer rent, if you look at state statutes. It amounts to about \$1.76 per thousand gallons. Are there other charges?

MRS. KEHOE: That is it within that tax levy. You have the front footage, you had the ad valorem.

MR. DAVIES: There is no front footage charge included in there.

MRS. KEHOE: I believe there is.

SUPERVISOR FULLER: Were you in today, Sherwood?

MR. DAVIES: Pardon.

SUPERVISOR FULLER: Were you in today to look at these?

MR. DAVIES: I looked at it tonight.

SUPERVISOR FULLER: Monday was it when they were missing in there?

MR. DAVIES: Oh, that is something else again. That is another issue.

SUPERVISOR FULLER: I was aware of that because I was up looking at them... Bruce has been ill so he is not here to...

MR. DAVIES: I suspect what has happened but it is not clear with regard to the sewer roll and I think it is incomplete. If you don't include the 3 separate charges.

I have the other question, there are 3 separate sources... and this is quite important because I think they represent 3 separate sources of revenue and they appear to be lumped together as what you refer to as a district property tax, item no. G1001. Is this correct?

MRS. KEHOE: That is correct.

MR. DAVIES: Yes. The projected revenue from the property tax is approximately \$660,000 but our bonded indebtedness annual payment is about \$1.18 million. Shouldn't the property tax revenue support our bonded indebtedness payments?

MRS. KEHOE: The \$660,000. now, that line item that you referred to, the G1001, is showing 2.5 million dollars.

MR. DAVIES: Correct but that includes, does it not Judi, your district property tax, your front footage charge and your sewer rent charge?

MRS. KEHOE: Yes.

MR. DAVIES: I broke them out with a little information I was able to get just the property tax and it does not support our level of bonded indebtedness. And, I think this is... contrary to what I understood the Board wanted to do in previous years. But, let me just pursue the next question. The sewer rent revenue will be 1.28 million dollars and the sewer treatment plant operating costs are reported to be \$623,000. Again, isn't the intent to have the sewer rent revenues reflect and pay for the sewer operating charges? We have sewer rents twice the amount of the sewer plant operating costs. I think this is really not consistent with what the intent of the past Boards have been.

Five, the Bethlehem Sewer Ordinance requires that properties be tied into the sewer where available... where the sewer is available. Some properties located in the sewer district using significant amounts of water, pay no sewer rent charge -- I wondered why and shouldn't we have a listing of those properties that would be exempt.

Six, in 1989 the Town added a sewer rent charge for the Delmar/Elsmere Sewer District users. This is the old sewer district. I am resurrecting a question that I asked 2 or 3 years ago because I think it is important that maybe the Town Attorney address it. I raise the question -- wouldn't the Town Law prohibit the establishment of a sewer rent charge for these Delmar/Elsmere Sewer District residents -- I think it is prohibited under the Town Law. If they had been on an ad valorem charge, it should continue on an ad valorem charge.

Seven, there are a number of properties receiving partial exemptions from the sewer property tax -- is there an ordinance or regulation

that provides guidelines as to the amount of such exemptions and how these exemptions are calculated?

Eight, in 1993 approximately \$250,000. was transferred from the Sewer Budget to the Capital Reserve fund due to overfunding. What is the projected amount, if any, of overfunding in the 1994 budget? Okay.

MRS. KEHOE: May I answer?

SUPERVISOR FULLER: Sure.

MRS. KEHOE: Overfunding isn't really correct terminology.

MR. DAVIES: Underexpended?

MRS. KEHOE: Underexpended. When the budget is prepared, that is using the information that we have at the time projecting out what we plan to spend in the coming year, the fact that the end of the year has come and some of that money has not been spent -- Bruce had explained last year and the year before that what circumstances had happened that prevented him from spending the money as planned, however because the money was available and because these same projects that were delayed were planned to be done in the future, that money has been transferred to the reserve. So, the money is not lost, it is there, available in the future for these projects. So, it is not something that you can say what is going to be underexpended in 1994, you don't know until you have gone through that entire year. There may be nothing that is underexpended. It is not as though there is a planned contingency within the budget as you are indicating.

MR. DAVIES: But, there is still this some of money in the Capital Reserve fund.

MRS. KEHOE: Yes. In the reserves, nothing...

SUPERVISOR FULLER: Set aside in the reserve fund.

MR. DAVIES: Then I would ask this question -- shouldn't this money be used toward the bonded indebtedness or as a reduction in our sewer charges instead of putting it into the Capital Reserve Fund? It is a question I ask.

SUPERVISOR FULLER: What would be the advantage to it?

MRS. KEHOE: By law, I do not believe we can spend that on the debt service. When it is in a Capital Reserve, it is designated for capital projects. You have to get approval for the specific capital projects that you will be spending the money on but normally, debt service isn't... that is a different type of expenditure all together. If the fund were ever collapsed by Board vote, you may be able to transfer those unexpended monies into debt service to take care of any outstanding debt at the time but there are capital projects that will be necessary to be financed from the monies in these reserves at some point in the future.

MR. DAVIES: Is due notice given so the public can... is due notice given so the public can have a response or is this just by memorandum to the Board?

MRS. KEHOE: Any expenditures out of the Capital Reserve Fund are subject to permissive referendum which means that there is publication in the newspaper through legal notices and you could possibly have a hearing then if it was desired and approval at a minimum is required by Board vote at a Board meeting before you can spend any of those funds.

MR. DAVIES: Last question -- the property in the Bethlehem Sewer District that is located in the Bethlehem Sewer District but presently unsewered, that is there is no main in the street, there is the plant that is built to serve that area and there are sewer mains and pump stations built to serve it, that land is presently... the unsewered land is presently assessed at \$75,000,000. but they pay less than \$13,000 per year -- isn't this an extremely small payment

for the benefits of having the sewage treatment plant and sewer mains accessible to their properties? That is all I had in questions.

SUPERVISOR FULLER: Bernie, do you want to respond to the question?

ATTORNEY KAPLOWITZ: I don't know the answers.

SUPERVISOR FULLER: Any other questions? Okay. Those speaking in favor of the assessment rolls that are here today. There were none. Those wishing to speak in opposition.

MR. DAVIES: This will be quick.

SUPERVISOR FULLER: Sherwood, I am not surprised.

MR. DAVIES: I am opposed to the sewer budget for the following reasons.

One, the charges are inequitable. No information has been provided reflecting the amount of revenue from each source and how the revenues are apportioned as to the sewer collection, sewer treatment and bonded indebtedness.

Two, the tax rate for unsewered property in the Bethlehem Sewer District is grossly inadequate based on the benefits to the owner and developers.

Three, under Section 452 and 453 of Article 14-F of the General Municipal Law, if sewer rents are established monies from sewer rents should be put in a sewer rent fund and the basis of the charge should be provided. This has not been done.

Four, in my view, the Town Board Members provide little if any oversight of the revenue source and how it is apportioned as to the collection, treatment and indebtedness. I believe that in the past, the administration's response has been... let the user pay. When our sewer charges represent the largest portion of our local property tax, we should have more detail oversight by our elected officials. Thank you.

SUPERVISOR FULLER: Thank you, Sherwood. Is there anyone else who would like to speak in opposition? There were none. May I have a motion to close the public hearing?

The motion was made by Mr. Webster and seconded by Mr. Lenhardt to close the public hearing at 7:44 p.m. The motion was passed by the following vote:

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

Noes: None.

SUPERVISOR FULLER: Some of these concerns that Sherwood has raised, he has raised before and it has been discussed with Mr. Secor. Unfortunately, he is not here this evening but if you would leave us a copy, Sherwood, we can.

MR. DAVIES: I will have to make a copy, Sheila, but I will do that.

Kathleen A. Newkirk
Town Clerk

The Supervisor convened the regular Town Board meeting following the close of the public hearing.

Supervisor Fuller asked for a motion to adopt the Assessment Rolls for the Bethlehem Sewer District.

1995 Sewer Assessment Rolls Adopted WHEREAS, assessment rolls for the year 1995 have been prepared by the Town Board for and in connection with the Bethlehem Sewer District, which said rolls were completed and filed with the Town Clerk of said Town, and

WHEREAS, due notice of the completion of the assessment rolls and of the time and place when and where this Board would meet to hear and consider any objections that might be made to said rolls and for the purpose of reviewing, correcting and amending the same, was duly given by the Town Clerk by publication of due notice in THE SPOTLIGHT, a newspaper published in the County of Albany and the Town Board met at the time and place specified, and the hearing was duly had upon said assessment rolls,

NOW, THEREFORE, BE IT RESOLVED, that said assessment rolls be and they hereby are approved, affirmed and adopted by the Town Board as amended proposed and filed.

The foregoing resolution was presented for adoption by Mr. Webster, was seconded by Mrs. Davis and was duly adopted by the following vote:

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

The next item was to consider adoption of the 1995 Preliminary Budget for the Town of Bethlehem, total of \$20.0 million.

SUPERVISOR FULLER: Under our new budget, the Bethlehem residents would realize an average drop in their Town-wide taxes, general, highway, sewer and water of 3.6 percent, an additional 2 percent more than the 1.6 percent reduction contained in the September 28th budget proposal. As a result, the owner of a house assessed at \$130,000. who paid \$412.35 in general, highway, sewer and water taxes this year, will pay \$397.68 in 1995 -- a savings of \$14.67 or 3.6 percent decrease. May I have a motion to approve our 1995 budget.

1995 Preliminary Budget adopted WHEREAS, the Town Board has met at the time and place specified in the Notice of Public Hearing on the Preliminary Budget and heard all persons desiring to be heard thereon,

NOW, THEREFORE, BE IT RESOLVED, that the Preliminary Budget be and it hereby is adopted as the Annual Budget of this Town for the fiscal year beginning on the 1st day of January, 1995, and that such Budget as so adopted be entered in detail in the minutes of the proceedings of this Town Board, and be it

FURTHER RESOLVED, that the Town Clerk of this Town shall prepare and certify, in duplicate, copies of said Annual Budget adopted by this Town Board, together with the assessment rolls for benefit improvements, if any, adopted pursuant to Section 202-a, of the Town Law, and deliver two copies thereof to the Supervisor of the Town to be presented to the Albany County Legislature.

The foregoing resolution was presented for adoption by Mr. Lenhardt, was seconded by Mr. Putney and was duly adopted by the following vote:

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

Acknowledge receipt of Quarterly Franchise Fees Cablevision The following item was to acknowledge receipt of the Quarterly Franchise Fees from Cablevision for the quarter July through September 1994 at \$30,037.

The next item was to acknowledge the proposed Emergency Medical Services program. The Supervisor asked for a motion to acknowledge receipt of the proposal.

Acknowledge
EMS Program
Proposal

The motion was made by Mr. Webster and seconded by Mr. Putney to acknowledge receipt of the proposed Emergency Medical Services program. The motion was passed by the following vote:

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

For clarification, the Supervisor stated the only action taken was to acknowledge the proposed program. No action or public hearing will be scheduled at this time. She further noted the Town Board will discuss the proposal and notification will be given when a public hearing is set. She said she was sorry for the rumors that were spread but thanked those in attendance for coming to find out the correct information.

The next item was a request for appointment of seasonal personnel for the Parks & Recreation Department.

Approve
Seasonal
Personnel
Parks & Rec.
Dept.

The motion was made by Mr. Webster and seconded by Mrs. Davis to approve the appointment of Megan E. Smyth, Slingerlands, NY as Lifeguard, Parks & Recreation Department, at a salary of \$5.90 per hour. The motion was passed by the following vote:

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

The following item was a request from Karen Pellettier, Director, Senior Citizen Services, for appointment of personnel.

The motion was made by Mrs. Davis and seconded by Mr. Webster to approve the appointment of Elizabeth Mosier, 33B Borthwick Avenue, Delmar, NY to the position of Clerk-Typist I, Switchboard Operator, at a salary of \$17,763. and and the appointment of Mabel J. Farrow, 41 Dykeman Road, Delmar, NY to the position of part time Clerk Typist I at an hourly rate of \$6.83. The motion was passed by the following vote:

Appoint
Clerk Typist I
Senior Citizens
Services

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

The next item was a request from Senior Citizen Services Director, Karen Pellettier, for reappropriation of insurance funds to vehicle maintenance to cover repair of senior van.

Reappropriation
of Insurance
Funds to
Vehicle Maint.
Senior Citizens
Services

The motion was made by Mr. Webster and seconded by Mr. Putney to approve the reappropriation of \$394.67 from Insurance Recovery, Item No. 2680, to Vehicle Maintenance, Item No. A6772.465, to cover repair of senior van. The motion was passed by the following vote:

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

The following item was a request from Highway Superintendent, Gregg Sagendorph, to go to bid for Tree Work.

Go To Bid
Tree Work

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

WHEREAS, the Town desires to advertise for bids for All Tree Work (removal, pruning and preservation), as needed by the various departments within the Town, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 16th day of November, 1994 and that bids be received up to 2:00 p.m. on the 29th day of November, 1994 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

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

Noes: None.

Acknowledge
receipt of
1994 Highway
Equipment
Inventory

The next item was to acknowledge the receipt of the 1994 Town of Bethlehem Highway Equipment Inventory from Gregg Sagendorph, Highway Superintendent, in accordance with Highway Law Section 142(3).

The following item was to approve the Town Board minutes.

Approve
Minutes
9/14, 9/28,
10/12, 10/19,
10,26, 1994

The motion was made by Mr. Webster and seconded by Mr. Putney to approve the Town Board minutes of September 14, September 28, October 12, October 19 and October 26, 1994 as submitted. The motion was passed by the following vote:

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

Noes: None.

Award Bid
Contract 1B
Water Expansion
Facilities

The next item was a recommendation from Bruce Secor, Commissioner of Public Works, for award of bid for Contract 1B, Ground Water Infiltration System, Water Supply Expansion Facilities.

The motion was made by Mr. Webster and seconded by Mr. Putney to approve the award of Contract 1B, Ground Water Infiltration System, Water Supply Expansion Facilities, to Delaney Construction Corporation, Mayfield, NY at a bid price of \$1,791,015. total and alternate bid of \$1,745,515. The motion was passed by the following vote:

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

Noes: None.

Question was raised as to what this item was and whether the amount of monies was within the projected costs. Supervisor Fuller indicated she had just the bid award document in the Board room but the remainder of the information would be available following the meeting.

Proposed
Noise abatement
Ordinance
presented
by Richard
Schrade

The Supervisor asked if anyone wished to speak to the Board this evening. A statement was made by Richard Schrade, resident of Slingerlands, New York. Mr. Schrade expressed concern over a situation existing near his residence, 28 Turnberry Drive, Slingerlands which is zoned AA Residential zone. He addressed the continued use of heavy equipment on adjacent property, noting a fence is being installed with barbed wire on top and the burning of debris. He said this situation started in May of 1994 when he noticed the clearing of land at the rear of his property. He further noted approximately 20 feet of the cleared land was into his rear yard line destroying natural forest growth and trees. The adjacent property owner was notified and said the employee had been notified of the mistake and the situation would be corrected. No correction of this situation has been done as of this date and Mr. Schrade contacted the Building Department regarding the situation. He

further noted there has been continued work 7 days a week at this location. He noted the noise and vibration causes undue stress and disruption to his family.

Mr. Schrade further noted a part of the Bethlehem Town Code. He feels the general welfare of the neighborhood is being affected. Note was made of a burning permit obtained from the Albany County Health Department by his neighbor, Mr. Cade. He said 20 days was to be the permitted period of time for burning from July 22, 1994. Mr. Schrade said he brings this information before the Town Board due to the fact he has brought this information to the Town Building Inspector and met with him and the Supervisor. He said there is nothing specific in the zoning ordinance or laws to restrict the use of heavy equipment.

Mr. Schrade presented a proposed noise abatement ordinance and proposed amendments to the zoning laws and ordinance of the Bethlehem Town Code. Mr. Schrade thanked the Board Members for letting him speak tonight. (Statement including proposals following minutes). Supervisor Fuller thanked Mr. Schrade.

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The Supervisor asked if anyone else wished to address the Board.

The following was requested to be verbatim.

MRS. ROYO: Good evening.

SUPERVISOR FULLER: Excuse me.

MRS. ROYO: I would like to make a statement on behalf of Clearwater for Bethlehem and Mrs. Newkirk, in accordance with our agreement, I would like this to appear verbatim in the minutes of the meeting tonight. Yesterday the voters in the Town of Bethlehem overwhelmingly expressed their concern about the Hudson River water project. The message was loud and clear. Today a letter appeared in the Spotlight written by Sheila Galvin, a former Town Board Member. She sat in one of the seats you are sitting in now when the water project was being planned. She revealed in her letter today that at the time the Hudson River was suggested as a viable alternative for the Town of Bethlehem, it was for commercial use only and not for residential drinking water. She also mentioned that at that time, according to the water use numbers that Bruce Secor provided, that there was no foreseeable problem with the residential drinking water. She mentioned irregularities, slipshod performance and she questioned the accuracy of the testing that had been done and the decisions that were made based on that testing. In view of the overwhelming opposition to this project and in light of the new information supplied by former Town Board Member Sheila Galvin which casts so much doubt on this water project, Clearwater for Bethlehem is formally, once again, asking for a compromise -- that this water be used for industry only and not mixed with the residential drinking water. Clearwater for Bethlehem's concerns are the same today as they were yesterday and that they will be tomorrow. And, we want to tell everyone in the community who voted for Bill Burkhard in opposition to this water project and for everyone who signed the petition in opposition to this project, that don't give up -- it's not over -- it's just the beginning. Thank you.

SUPERVISOR FULLER: Thank you, Fran.

MRS. CAPONE: Could I say something?

SUPERVISOR FULLER: Is there anyone else who would like to address the Board this evening?

MRS. CAPONE: Me. Okay. I think Mrs. Galvin's opinion should be treasured by the Town Board like George Bush's opinion is treasured by Bill Clinton.

SUPERVISOR FULLER: I haven't seen the Spotlight or Mrs. Galvin's letter to the editor and I am not sure where Mrs. Galvin was in the process with the water project but we can look into that.

Question was raised with regard to the adoption of the Budget with notation that the Preliminary Budget was adopted at the meeting. Supervisor Fuller indicated the adoption of the Preliminary Budget was done and thus, it becomes the Final 1995 Budget for the Town.

The Supervisor asked if anyone else wished to address the Board.

The following was requested to be verbatim by Mrs. Burtis:

MRS. BURTIS: I am Linda Burtis and I live in the Town of Bethlehem and I'm involved with Clearwater for Bethlehem. I have been thinking for the last couple of weeks -- oh, could these remarks be verbatim, Kathy?

TOWN CLERK NEWKIRK: Yes.

MRS. BURTIS: Thank you. That what... you know, the last time I came here, I was heckled by Mrs. Capone in the back of the room. Could you please ask you not to do that.

SUPERVISOR FULLER: Please for everyone to refrain.

COUNCILMAN WEBSTER: She didn't say anything.

ATTORNEY KAPLOWITZ: She didn't say a word.

COUNCILMAN WEBSTER: That wasn't her, someone giggled.

MRS. BURTISS: Just now?

COUNCILMAN WEBSTER: Yes but it wasn't her.

Students in attendance: Yes, it was.

COUNCILMAN WEBSTER: Oh, I thought I saw someone else.

MRS. CAPONE: I didn't heckle anybody, I didn't say a word.

SUPERVISOR FULLER: Go ahead.

MRS. BURTIS: Well, it is hard to come up here and speak when somebody in the back is laughing at my remarks, I mean...

SUPERVISOR FULLER: She was asked not to.

MRS. BURTIS: Okay, thank you. Where was I... um, a week ago the Spotlight came out with a lot of letters, about 30 letters I think, about the water issue and one of the headlines was, Community Blood Roiled Over Water Project. It is in the Spotlight and lots of other headlines, Residents Pen Strong Views on the Water Source, Community Pours out Thoughts on Water Plan. It looks to me like what has happened -- in the summer when you had the hearing and about 700 people came to the hearing, the issue was out on the table so that most of the community knew that the drinking water was going to be changed and there was a connection to the Hudson River. Now, I think what has happened, is that there are 2 camps in Town. There is a camp who supports that decision and there is a camp who doesn't support that position. There is a lot of hostility that is going back and forth and it is a very sad thing that is happening. I think... and everything that we have asked for we have gotten not one thing. We asked for an informational meeting in March of the Town Board and that was not allowed. We asked for a referendum and that was not allowed. We asked for a compromise where you figure out a way to have the drinking water not be included with the water coming from the Hudson River. I have even thought of a way this is not even in the original plans from the engineer. Why not keep Vly Creek for the residents and the 2 1/2 million gallons a day that is used for industry be hooked up with the new system so that we don't even need to have industry draining Vly Creek and we can keep Albany out of the loop altogether. Anyway, at this juncture, I think it would be good if somebody in the community could rise to almost a heroic position and figure out a way to put some closure on this issue. To bring

some kind of a resolution so that both... that this doesn't continue this antagonism and the splitting of the Town apart. So, that is what I am asking for.

SUPERVISOR FULLER: Thank you, Linda.

Mr. Davies asked about the adoption of the budget. He noted comments were made at the hearing and asked if the Board Members received any response from the administrative staff with regard to the comments. Supervisor Fuller said they had. Mr. Davies asked if it wouldn't be expected that there would be some type of response made to the person making the comments or make it available. He asked if he had to apply under the Freedom of Information. Mrs. Fuller said she assumed the information had been sent by Mr. Secor. She said she was sorry Mr. Secor was not in attendance. Mr. Davies said Mr. Secor had not sent him a copy. Mr. Davies thus asked if comments were made whether the Board establish a procedure to acknowledge or respond to the person as to a decision without having to go through a Freedom of Information request. He asked if this would be an unreasonable request. Supervisor Fuller said she did not believe it was. Mr. Davies asked if he could receive the comments. Supervisor Fuller noted she will get him a copy if she has a copy and if not indicated Mr. Davies should contact Mr. Secor.

Discussion
re: Adoption
of Budget

Mr. Davies said the other comment he had and this has happened routinely and he thinks it may help the community, it may help the Spotlight in reporting the events carried on by the Town Board and to help the public in general and that was that the last item on the agenda did not give enough detail. He suggested that certain information be contained on the agenda.

Supervisor Fuller thanked Mr. Davies.

Mr. Burkhard said he thought the agenda should contain more information also. Indicating the item pertaining to the budget could contain more information, Mr. Burkhard said he felt that people not familiar with the procedure would understand more. The Supervisor indicated the problem is for the Bethlehem Channel. She further noted they asked that the agenda be printed concise for ease of televising it. Perhaps, more information could be contained if anyone had any further questions. Mr. Burkhard also questioned the other budgets for the fire departments and the ambulance services not being available. Supervisor Fuller noted they were available the night of the public hearing and they were also available when the budget was presented for the first time. Mr. Burkhard commented to the fact that he did not want to change procedures. Supervisor Fuller said she thought he was trying to say there was changes to the procedure, however, there has not been since she is in attendance for the 3rd year. Mr. Burkhard asked the aggregate amount for the emergency services. Supervisor Fuller asked Mrs. Kehoe if she knew the figure. Mrs. Kehoe said she did not have a total on them, they are individual. Note was made that they are available in the Town Clerk's office.

Discussion
Contents of
Agenda

Councilman Putney had a question relating to Mr. Schrade's presentation. He said it sounded like there is some annoyance going on and he wondered if there is something the Town is able to do or should be doing in regard to this situation. Supervisor Fuller said Mr. Cade has received notice to appear before the Zoning Board of Appeals. Mr. Flanigan said he has declined to do that because he is not going to put cows or horses in there at this time. As far as what he is doing at the property, Mr. Flanigan said this has been discussed with the Town Attorney, and it is his private property which allows him to do this work. He also noted Mr. Cade owns the equipment himself and stated he owns over 100 acres of property. Attorney Kaplowitz said this should be looked at. He said he is on his own property and has a reasonable latitude to do what he wants to do as long as he is not affecting others. He further said some of the things are probably what the law would call or recognize as a private nuisance between the two parties.

Further
Discussion
re: Noise
Abatement

Mr. Lipnicky noted at the present time there is no requirements in the regulations with regard to somebody grading their property unless it is somehow related to either a development proposal or a condition that may have been placed on a variance at some point in time. He also said he thought this could be looked at.

Mr. Karl Schrade said he thought the people may be missing the point. He said they are not suggesting that Bill Cade not grade his property. They indicated they think a degree of reasonableness should be exercised as far as the days of the week and the times that it is done. He said Monday through Friday, 8:00 in morning til 4:00 in the afternoon is plenty. He said he thought there should be time on the weekend when you are home with your family, that there be some peace and quiet and rest. He said they are not trying to suggest you can't use lawn mowers. He feels this is different when you are talking about heavy diesel equipment. The ordinance proposed suggests limiting the hours and days.

Attorney Kaplowitz questioned whether this would be permitted under the law. Mr. Schrade said he thinks it is okay, indicating there are areas with noise abatement. He further noted he thinks this should just be reasonable. Mr. Kaplowitz noted when the fence ordinance was adopted, it was done to favor chain link fencing because they were considered less obtrusive, less objectionable from an environmental or visual standpoint.

Mr. C. Preska asked for a clarification relating to diesel equipment. He noted there is a substantial amount of agricultural property in town and wondered how this would be affected. Mr. Schrade said in the ordinance proposed, it is limited to AA residential zoning. Mr. Preska indicated he lives in an AA zone and operates a farm with heavy equipment. Mr. Schrade again indicated it would be during the day hours. Mr. and Mrs. Preska indicated they cannot do that because they operate a farm. Mr. and Mrs. Preska said they work and operate a bulldozer in the operation of their farm.

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The Supervisor thanked everyone for joining the Town Board.

The motion was made by Mr. Webster and seconded by Mr. Lenhardt to meet in Executive Session following the regular Town Board meeting to discuss negotiations. The motion was passed by the following vote:

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

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The motion was made by Mrs. Davis and seconded by Mr. Putney to adjourn the regular Town Board meeting at 8:20 p.m. The motion was passed by the following vote:

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

Kathleen A. Newkirk
Town Clerk

Executive
Session

EXECUTIVE SESSION

There was no action taken at the Executive Session.

November 9, 1994; To The Bethlehem Town Board.

PROPOSED NOISE ABATEMENT ORDINANCE:

That the ordinance be amended to provide that no diesel powered or gasoline powered earth moving equipment, construction equipment, or any other offensive and loud noise producing equipment, including, but not limited to bulldozers, graders, backhoes, ditch diggers, trench diggers, power shovels, land clearers, trucks, power wood cutting saws and log splitters, weed wackers and all similar equipment, shall be operated or have the engines running for any purpose or at any time other than between the hours of 8:00 AM and 4:00 PM Monday through Friday, nor shall any such equipment be operated on any National or Local holiday if such holiday falls on any day from Monday through Friday, except in an emergency experienced or declared by a public utility or municipality. That to operate such equipment other than during the hours specified in the ordinance shall be a violation subjecting the owner and subjecting the operator of such equipment each to a fine of not less than \$100.00 nor more than \$500.00 for each hour or fraction thereof that such equipment is so operated.

Date: November 9, 1994

Audience: Town of Bethlehem Town Board Meeting

Subject : Proposed amendments to the Zoning laws and Ordinances

The following statement is read by town resident, Richard Schrade into the minutes of the Town Board Meeting.

"My statement tonight will include the following points

- 1) Who I am
- 2) The situation which has precipitated me addressing the Town Board tonight and
- 3) My proposals for amendments to the Town of Bethlehem ordinances and zoning laws.

I have been a resident of Albany County for over 30 years and a resident of the Town of Bethlehem for over 19 years. I currently reside at 28 Turnberry Drive in Slingerlands, an approved AA residential zone adjacent to other AA residential zones. I have lived in our current house with my wife Betsy and my two young children William age 4 and Carolyn age 3 since May 5, 1994. We decided on the Town of Bethlehem to reside and raise our family after an exhaustive search weighing a number of other areas of the Capital District and out of state. The Town of Bethlehem is an incorporated town utilizing zoning with many public amenities and what we thought was an idyllic place to raise a family.

I move to my second point this evening which is why I am addressing this Town Board. Beginning in early May 1994, shortly before I moved into our new home in the new Cedar Ridge Development in Slingerlands, I noticed some clearing of land directly behind my home and close to my rear yard line. The rear acreage is owned by Mr. William J. Cade of Ellery Estates in Slingerlands. One diesel powered bulldozer was being used to clear a path and remove trees for a long perimeter fence surrounding the entire Cade estate. I hired a surveyor to place markers at my property line and immediately discovered part of the cleared land was approximately 20 feet into my rear yard line destroying natural forest growth and trees. I notified Mr Cade of this situation and he indicated the employee was aware of the lot line and this grading was a mistake and everything would be regraded and restored prior to a 10 foot barbed wire fence being installed. The 10 foot chainlink barbed wire fence is now being installed on my rear line and no replanting has occurred adding to my frustration.

I approached the building department first on the subject of the fence and there is no height restriction on cyclone fencing or the use of barbed wire. If you are not aware, this fence will also run more than a 1/4 mile, 13 feet in from the road, down Orchard Street with no visual barriers.

In the meantime there has been bulldozing and regrading everyday including Saturday and Sunday, seven days a week since May 5th to regrade an area of 30 acres of land along Orchard Street. The continuous bulldozing has been very disrupting to my family and to the neighborhood and which cannot be described in words. Mr. Cade is attempting to level and regrade 30 acres with the equivalent of a small shovel compared to the amount of dirt to be moved and probably will not complete his work in the near future. The sound of bulldozing next to my property is deafening and continues to vibrate my foundation as well as my neighbors causing undue stress and disruption to our lives.

I quote a section of the zoning law on page section 128-4 that "No building or land shall be used for any trade, industry or purpose that is noxious or offensive by reason of the emission of odor, dust, smoke, gas, fumes, noise, etc. or that is detrimental to the health safety morals or general welfare of the community". Our general welfare as well as my neighbors has been affected in a number of areas:

Odor, fumes: priming and refueling equipment leaving a diesel smell permeating the neighborhood as well as the continuous operation of equipment.
Smoke: open burning of brush and trees as well as discharge from the machinery.
Noise: heavy diesel equipment operating close to the properties.
Dust: Erratic regrading causing extensive billows of dirt dust.

I continue by mentioning on July 5, 1994 a restricted burning permit was issued to Mr. Cade and the town notified by letter that burning in this area, "designated as agricultural", is allowed for 20 days of the permit period 7/22/94 through 1/22/95. This area is 1) designated as AA residential and 2) a use variance for creating this pasture land for grazing of cattle and/or horses expired on December 19, 1993. In addition, Mr Cade has burned in excess of 20 days allowed by the permit.

I bring this information before you since my efforts to work with the Town building department have been to no avail. I have met personally with Mrs. Sheila Fuller and Mr. John Flanigan and repeatedly called Mr. John Flanigan to discuss this matter and there is nothing specifically mentioned within the zoning laws and ordinances to restrict the use of heavy diesel powered machinery or the direct noise and vibration caused by such equipment bordering a residential area. Had a variance been in effect the town could limit his uses by section 128-24 "Performance standards applicable to special exceptions.

My comments above although lengthy do not begin to convey my sense or degree of frustration with this situation.

I conclude with the following recommendations to the Town Board:

Noise Ordinance:

On the subject of noise I recommend an ordinance limiting the use of heavy diesel powered equipment including any bulldozer or earth moving device to the hours of 8am and 4pm Monday through Friday except in an emergency situation ie. Public Utilities.

After direct discussions with Mr. Cade to limit the hours to 8am to 4pm Monday to Friday and his verbal agreement to do so, he continues to bulldoze after 4pm up to 6 days per week.

Use and storage of heavy diesel powered equipment in a residential zone:

I recommend limited the use of heavy diesel powered earth moving devices be limited to use in a residential zone to the above hours and to not more than 30 calendar days per year in any combination without planning board approval. The purpose would be to prevent a person operating earth moving equipment all year long without consequence. The storage of such equipment should be limited to zones able to house accessory garages for such equipment. In a AA residential zone accessory garages limit "storage to not more than (3) motor vehicles of the passenger type." (section 128-36)

A New Fence Ordinance:

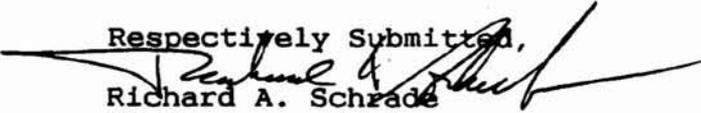
I recommend a new fence ordinance in residential zones limiting fencing to 5 feet solid or cyclone material and to ban all use of barbed wire in or adjacent to a residential zone.

Grade Changes:

I recommend restricting grade changes between adjacent properties regardless of the type or class of property without the approval of the planning board. Currently Mr. Cade could build a 20 foot dirt wall at my rear yard line although I do not have the same liberty without the approval of the building department because I am located with a planned subdivision. I ask this change to protect homeowners from overzealous neighbors and to control drainage issues which could result.

I thank each board member for allowing me to speak tonight and I look forward to resolution of these matters in the near future. I can be reached at 475-7690 if anyone would like to discuss the above items further. Thank you again for you attention.

Respectively Submitted,


Richard A. Schrade
28 Turnberry Drive
Slingerlands, New York