

TOWN BOARD
NOVEMBER 13, 1991

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

PRESENT: Kenneth J. Ringler, Supervisor
 Frederick C. Webster, Councilman
 M. Sheila Galvin, Councilwoman
 Charles Gunner, Councilman
 Sheila Fuller, Councilwoman
 Bernard Kaplowitz, Esq., Town Attorney
 Bruce Secor, Commissioner of Public Works
 Philip Maher, Comptroller
 Gregg Sagendorph, Foreman, Highway Dept.
 Jeffrey Lipnicky, Town Planner
 Bill Schanck
 D. Fry, Progress Club
 Regina Bulman, The Spotlight Representative
 Ilaina Jonas, Times Union Representative
 Kathy Keenan, News Herald Representative
 Kathleen A. Newkirk, Deputy Town Clerk

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Discussion
 Community
 Residence
 828 Feura
 Bush Road

Supervisor Ringler noted this is not a public hearing, it is a business session of the Bethlehem Town Board. However, he said as is done with all of the meetings, after each item is discussed, if anyone has a question regarding any subject, as time permits, if you will raise your hand, the Board will try to answer the question. He further said at the end of the meeting if anyone wants to discuss any matter with the Board, we do that. The first item, according to the Supervisor, is a discussion of a potential site for a community residence at 828 Feura Bush Road, Delmar. He said the Town has received official notice from the O.D. Heck Developmental Disabilities Services Office that they have chosen this site and they are required to notify the Town by law. He said Mr. Ed Solomon is in attendance, indicating he is the Director of the Program Development Unit. He said as most of the Town Board has not been through the siting of one of these before, he thought it might be appropriate if Mr. Solomon gave an overview of how this is handled and what the responsibilities of the Town are.

Mr. Ed Solomon thanked the Board for the opportunity to give the overview and indicated he would try to be brief due to the length of the agenda. Basically, Mr. Solomon said the Mental Hygiene Law, Section 4134 provides an opportunity for the Office of Mental Health and the Office of Mental Retardation and Developmental Disabilities to notify a municipality when they have located a particular site in a municipality to develop a community residence. He said he represents the Office of Mental Retardation and Developmental Disabilities and specifically that regional office. He said the O.D. Heck Developmental Center serves a 6 county area that includes Albany County. He said the Board is familiar with some of their residences that operate right within the Town, operated by Capital District NYAL, the Albany ARC, two State operated residences in the Town, and noted the United Cerebral Palsy Center for the Disabled has another residence in the Town. He indicated they have located a potential site on Feura Bush Road. The process, according to Mr. Solomon, is to notify the Town formally and from the notification, they give a brief description of what the site is like and what the needs are.

Mr. Solomon noted the law provides several options for the Town, including the option to do a public informational meeting at which neighbors are invited and, of course, that will be discussed at this meeting. He said if that is something the Town wishes to do, he would be glad to come and do a full presentation at that meeting with neighbors. He said he would also be glad to invite, if the Board wishes, on a door-to-door basis, the neighbors who are immediately adjacent to the proposed home so they are aware of it and then usually word of mouth takes over from there and people will come as they see fit. But, Mr. Solomon said from the date that Mr. Ringler received the

letter, the Town has 40 days to decide to do one of three things. The first thing, Mr. Solomon said, is to approve the site. He said he notes this first because it is the thing they hope for in every municipality they go to.

Mr. Solomon said just to let the Board know, they have right now about 125+ community residences throughout the Capital District region. He said they have over 1,000 people who live in community residences. He said the need for community residences is unbelievably and undeniably strong. He said they have, at this present time, a waiting list of over 600 persons who are waiting, this day, to get into a community residence. Mr. Solomon said, as the Board knows, for so long the State did not provide opportunities for people to live in the community but provided only institutional opportunities and as this policy has changed, he is sure they are aware that the State is committed to closing all the institutions by the year 2000. But, he said, not only the institutions will close but also people living at home with their families will have an opportunity to stay in the community.

Mr. Solomon said the 40 day notice that was received, the Town can approve the site. He further noted the second thing to do is to disapprove the site but there are only really two reasons for this. One is to say that there is not a need for the site, according to Mr. Solomon and he commented to be very clear on need, the need is not the need in the Town, the need is a regional need. He said this has been well established by the courts. He said when you look at need, one cannot say we have 6 so we do not need a 7th because we are taking care of all the people in Delmar. He further said, obviously, people in the Town of Bethlehem use other services beyond just Bethlehem's services. Mr. Solomon noted the second reason you could disapprove the site by law, is to say and he quoted from the law "that there is such a concentration of similar facilities in the area that to establish the home at this site would substantially alter the nature and character of the area within the municipality". He said this was pretty much a verbatim quote from the Mental Hygiene Law. He said, by the way, he has all of this information written down for the Board in a neat little handout which he will give them when he leaves. He said, if you should choose to do this, obviously, they would enter a period where they probably would contest that with the Board and in other municipalities -- they have never had this happen in the Town of Bethlehem -- but we have and he must tell the Board, there are other Towns that have told them there is too many community residences. He said in which case, they have the option, as the sponsoring agency, to ask for a hearing before the Commissioner. He said a hearing is held and the Commissioner makes a decision and obviously, to go a step further, if the decision was in favor of the sponsoring agency, which would be O.D. Heck in this case, and the Town were still upset by that decision, an Article 78 in the courts could be brought to have a judge look at the situation. He said hopefully, we have not resorted to any of that within the Town and he thinks they will, hopefully, be able to give the Board all the information they need.

Mr. Solomon said the Board could reject the site based on need or concentration. He said no other reasons really. He said when talking about the concentration of facilities it means concentration that produces a change in the nature and character of the area. He said just to be clear, it is not just concentration, it is not just numbers, it is concentration that changes the nature and character of the area. He said he knows one of the questions the Board might ask, is what is a change in the nature and character of the area and it is undefined, specifically in the Mental Hygiene statute that is left open to municipalities to decide and obviously, the Legislature in thinking about that, knows that there is a difference between a New York City siting and an upstate siting, in terms of geography. He said a rural versus an urban, indicating there are just many, many characteristics of the State, so they did not specifically define what is a change in the nature and character of the area. He said that is something that would be up to the nature of the Town.

Mr. Solomon said the third thing the Town could do -- he mentioned three alternatives -- is the Board could suggest to them an alternate site. The law, according to Mr. Solomon, does allow this and they will fully examine an alternate site that is suggested to us. He said the

alternate site has to be equal to or superior to the one that they have picked. He said they have given a little fact sheet attached to the site selection letter that tells the Board some of the reasons they chose this particular property. He said so in selecting an alternate site, one would want to look at that fact sheet in terms of size and if there were questions about fiscal guidelines, he certainly can answer those. Obviously, Mr. Solomon noted, a problem for some municipalities in doing that is sometimes neighbors react no matter where you go. He said so in suggesting an alternate site, the Board might have a different set of people who might be concerned. He said this is just some of the issues that the Board may have to grapple with. He further said they have had excellent cooperation with the Town of Bethlehem in the past. He said he wanted to be very clear, on this proposal the State would operate this particular residence, it would not run by an ARC, a voluntary organization, which the Town is used to. He said these have been seen or the United Cerebral Palsy one, indicating this one would be run by the New York State O.D. Heck Developmental Center, noting the Town has experiences with their residence just a couple blocks from the Town Hall and also on Kenwood Avenue.

Mr. Solomon said this was really all he has to say in terms of the process. He indicated Supervisor Ringler asked him to speak about the process. He asked if there were any questions. Supervisor Ringler asked if there were any questions from the Board. Mrs. Capone asked where 828 Feura Bush Road is located. Supervisor Ringler said it is right next to Henry Klersy's building on Feura Bush Road. She said that was fine. Supervisor Ringler said this was for the Board's information, indicating it is close to Elm Avenue also. Mr. Solomon said the house is to the left of the shop looking at it. It is right across from the fire station, according to Mr. Solomon. Supervisor Ringler noted it is Diane Mangini's home.

Supervisor Ringler asked Mr. Solomon in regard to the possibility of having a public meeting on this if he would contact the neighbors ahead of time and tell them that this is going on so they know what is proposed. Mr. Solomon said his normal procedure is that he will do a little letter to Dear Neighbor and he will go door-to-door -- which is the best way to do it -- deliver it himself, if there are people there, he will always list his number so they can call in advance. He said he meets at people's homes at their request and all sorts of things go on before hand. He said he would also put in the letter, if this letter does not get to one of the neighbors because he missed or it might have **dropped out of the slot, just tell anybody that you think would be interested.** He said he will cover the immediate vicinity, behind the house, across the street from the house, and to either side of the house but what is a neighborhood and where does it stop and where does it begin, is hard to define. He said from years of doing this, he knows if he covers too many people, people say why did I get this and what is this all about and I really do not connect and if he does not cover enough, people say you left me out. Mr. Solomon indicated he will leave an opening in that little clause. He said he would be glad to do that if that is something the Board wishes.

Supervisor Ringler asked how many residents will be living there. Mr. Solomon said there would be 8 people. Mr. Ringler asked how many residences are in Town now. Mr. Solomon said he did not count but he thinks there are 6. Supervisor Ringler said the Town has not had a problem and stated as a matter of fact, there are a lot of neighbors that expressed concern in the past and as he has been to many of the homes, these same neighbors that had concerns are now on the advisory committee. He said they have become a real integral part of the neighborhood. Mr. Solomon noted they have had a very positive... and it is pretty typical in almost every municipality that they have been in. He said about the only situations that have been bad is where one or two individuals simply resent the fact that the home is established and they just sort of keep it up for years but most people cannot find the houses once they are established. He said they melt in.

Councilman Webster said he knows Feura Bush Road is not one of theirs and asked if it was an ROI. Mr. Solomon said that is the Albany ARC. Mr. Webster said he knows when they come in, the Board did make a recommendation that they invite the neighbors to one of their other locations which they did, they had them in for coffee and when they came back, the people were very much in support of it. Mr.

Webster said this is just a suggested idea. Mr. Solomon said this is a very good suggestion and they will do this also because there are residences right here in Town.

Supervisor Ringler asked if there were any other questions. Mr. Bill Schanck asked if this would be converting an existing structure or what. Mr. Solomon said it is a house right now that has 4 bedrooms and 2 and 1/2 baths and they will be basically using the house as is. He said they will make some physical plant modifications, they have to meet, indicating life safety code -- not only New York State but Chapter 21 of the National Fire Protection and Life Safety Association -- so they will make some life safety accommodations and they may modify one large -- right now they are not sure but by the time the informational meeting is held, he will be a little clearer on that. He said there is one large master bedroom which has a bath attached to it that they might want to divide into two single bedrooms rather than leave it as one large bedroom, to give people privacy. Mr. Schanck inquired if the people who are going to be housed here are developmentally... Mr. Solomon said they are mentally retarded and developmentally disabled. He said the way he describes -- and he brought a hand out that describes what a developmental disability for is the Board -- but basically words like people with Cerebral Palsy, mental retardation, antismog, neurological impairment or learning disability -- are the common developmental disabilities. These are not people who are mentally ill, according to Mr. Solomon, or require psychiatric care. These are people who are basic learning difficulties, he said. He said this house is for severely and profoundly involved individuals. People who need assistance in all aspects of their daily living, he said, and indicated when the public meeting is done they will describe that in detail for people.

Supervisor Ringler said he would like to suggest that this be done on December 11, 1991 at 7:30 p.m. The motion was made by Ms. Galvin and seconded by Mrs. Fuller that a public meeting be scheduled for December 11, 1991 at 7:30 p.m. for a presentation by Mr. Solomon regarding the siting of a community residence at 828 Feura Bush Road, Delmar, Town of Bethlehem. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

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Councilman Webster inquired if this was within the 40 day period. Supervisor Ringler noted the date on the letter received and the December 11th date would be within this time frame. He did indicate it could be done early, stating he asked Attorney Kaplowitz and it is not required to have legal advertisement that has to go in the Spotlight. Mr. Ringler further stated he wants to give time for people to know what is going on and afford anyone interested to plan to attend this meeting. Mr. Solomon said, again, preceding that anyone who calls him, he will be giving a lot of information directly to them. Supervisor Ringler thanked Mr. Solomon for attending this meeting.

Councilman Webster asked Mr. Solomon, for his own information, if Kenwood Avenue and Delaware Avenue are both his. Mr. Solomon said they are both theirs. Mr. Webster then asked who operated Adams Street. Mr. Solomon said Adams Street is the Center for the Disabled in Albany, McCormack Road is Residential Opportunities, Gay Street is the New York State Chapter for the Learning Disabled or commonly known as Wildwood and Feura Bush is the Albany ARC. Mr. Webster thanked Mr. Solomon. Mr. Solomon in turn thanked the Board. Supervisor Ringler thanked Mr. Solomon and said he appreciated his coming.

Supervisor Ringler said next is a discussion of a request for utility service for a parcel of land located on Route 85, New Scotland Road, in the Town of New Scotland for a proposed senior citizen housing apartment, indicating there was a memorandum from Mr. Secor. He asked Mr. Secor to display the map received in regard to this proposal. Supervisor Ringler gave the Board a little background, stating he has received a request from the Town of New Scotland, asking the Town of Bethlehem to consider providing water and sewer service to this parcel so that they could submit an application through a not for profit for

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Apartment

202 funding for a senior citizen housing project. The developer came in and talked to the Town about it, Mr. Ringler said, and the Town asked him to provide a sketch of exactly where he was proposing to put this on the parcel. As can be seen, in Mr. Secor's letter and as seen on the map, it is quite a ways from Route 85, according to Supervisor Ringler. Mr. Secor has some concern, as he does, as to where this should be, Mr. Ringler noted. Supervisor Ringler asked Mr. Secor to comment on this proposal.

Mr. Bruce Secor, Commissioner of Public Works, indicated on the map the location of the parcel of land. He said the old Mayfair drive in theater is across from this site and indicated the location of the restaurant, Heavenly Inn and noted the Stonewell shopping plaza is on the corner of Route 85 and Route 85A. He said this is a vacant corn field right now. Ms. Galvin asked Mr. Secor where the new car dealership is going to be located. Mr. Secor said they talked about it being somewhere on the beginning of this parcel, yet he has not seen a layout for that. He said the yellow drawing is superimposed on this old subdivision layout. Councilwoman Galvin said that was confusing her. Mr. Secor said he got a call from another... asking the Supervisor if he is going to read the memo. Supervisor Ringler asked Mr. Secor to give an overview.

Mr. Secor said along New Scotland Road, it is probably a half a mile to the beginning of our Town line and that is where our sanitary sewer system is. He said the water main already goes by this site. He said he got a call from a different consulting engineer who is looking at the possibility of a new car dealership and they were trying to place the building on this site to be within 150 feet of New Scotland Road so they would be eligible for water service. He said he has never seen a layout for that, never received anything, it was just kind of a preliminary deal. He further said some time after that the Town was contacted by the Town of New Scotland about this parcel and putting some -- he guesses this is low or low cost... Supervisor Ringler indicated it is Section 202 housing for low income individuals and you are talking 50 units. Mr. Secor said at the time the Town was first contacted, there was no sketch, they really did not tell us how many units in the beginning. Mr. Secor said we asked for something and this map was the result which shows a roadway -- boulevard entrance actually going in and this proposal being just plopped in the middle of a large parcel of land. He said it would require a sanitary sewer main coming from the Town line all the way up through this whole parcel. Mr. Secor explained, as he expressed in the memo, that it is a problem.

Attorney Kaplowitz said he assumed the outlined areas are owned by the same person -- the whole parcel. Mr. Secor said to be honest he does not know. Councilman Webster said this is the old Taylor farm. Mr. Secor said this sketch was received and there is a huge farm and there are hundreds of acres here. He said who owns everything involved here... and the zoning is commercial in the front and industrial in the back and he thinks under the New Scotland rezoning that is going on with New Scotland -- has been recommended in their master plan -- some of this has been changed from industrial to something else and he further stated he does not have all the information on that. Mr. Secor said just physically placing this in the middle is difficult. Supervisor Ringler said he thinks one of the concerns and from his perspective, he said he is very positive about the senior project because he thinks that would address some of the needs in our Town. He further said it is very close to our Town as well. He said the obvious situation is that the Town of Bethlehem does not want to create a situation of developing a huge amount of water use from the Town of Bethlehem. He further said if it is plopped out in the middle out there, one of the options would be -- he asked if we could require the size of the pipe that would preclude that, however, for an apartment complex such as this, they have to have a sprinkling system and fire fighting capacity, so you would need minimum 8 inch pipe. Mr. Secor said, again they would have to do the fire flow analysis but it would be something like an 8 inch. Supervisor Ringler said this would open it up for a lot of potential. He said he concurs with Mr. Secor, he believes -- and he will look for other thoughts on this -- but he believes it is a good project. He said it is the same group, that the sponsors have built one of these on Whitehall Road -- he thought they noted when they came in to meet with the Town -- and, they do have a track record in this type of housing and so forth. Supervisor Ringler

said he gets very nervous when he sees a subdivision surrounding it. He further said he does not think the Town, at this point in time, is interested in expanding large subdivisions and allowing water in the Town of New Scotland. He said he thinks the Board has been very consistent with their thinking on this up to this point in time. Supervisor Ringler asked if there were any comments.

Councilman Webster asked if there was a reason given for plopping this out in the middle of the cornfield at this point in time. Mr. Ringler said no, actually when the meeting was held, the developer did not tell the location and this was why the map was requested. He said this map just came in to Mr. Secor and Mr. Secor confirmed this. Mr. Secor said again, the request is not only for water service but they want sanitary sewers for this and this whole zone of the system -- and we are right out at the fringe of the sanitary sewer system -- and, whatever reserve capacity is out there, is delicate and the Town cannot service that whole section of the Town of New Scotland. Mr. Secor said if the Town was to contract to service this particular facility, he supposes we could tie that up but there is a considerable length of force main from there going all the way in, parallel to New Scotland Road. He said we already have 3 water mains in the right-of-way of New Scotland Road. He said it would require right-of-way, outside of the State right-of-way because they have to have separation between the sanitary sewer force main and the water mains. He said this would be all on private land and on one side of the road or the other. He said on the opposite side of the road is the Heldervale water lines and water extension to all the homes in Heldervale and so really, it would be relegated to be the northerly side of New Scotland Road and it would be on all private property going through there. He said it would be a difficult right-of-way to obtain and once the force main is in, the main has to be sized for minimum flushing velocities and there will always be some reserve capacity in there because the one pump station to service the 50 units would not be running 100 percent of the time. He said it would really be just a tip of the iceberg moving out. He said he does not mean to down play the importance of the use that is being requested, but there are all these other things that can go along with it that have to be contemplated.

Supervisor Ringler said he would like to recommend that the Town, if the Board is favorable to this, write to them and tell them we are interested in it but it would have to be within the 150 feet that Mr. Secor has eluded to in his letter. Councilman Webster said this would be for water only, we would not be able to provide sewer. Supervisor Ringler said we could, but they would have to build it. He said it would have to be sized specifically to meet this project and nothing beyond. Councilman Webster asked how this goes beyond our present capacity of the sewer mains coming in from that area. Mr. Secor said there is, again, some reserve capacity in that area. He said they picked up all of Heldervale in that last federally aided project and picked up another 10 or 12 houses in the back section of Heldervale because that was already in the water district. He said at that time, the comment from the Board was that that was it, we are going to clean this up because it is already in the Water District and that is it, done. Mr. Secor said this is part of it further beyond that and there is a noble purpose involved but it does really open up a whole other area if we start bringing sanitary sewers. He said it is only from there, maybe 500 or 800 feet to the Stonewell Shopping Plaza. He said this whole area is zoned commercial or light industrial. Councilman Webster said you get the feel of being used, seeing it way out there and knowing the lines will go out there.

Councilwoman Galvin asked if the Board went with an extension within the 150 feet, if they would have any obligation if they set up something of this order to extend it beyond the 50 units in the event there were future expansions. Mr. Secor said, obligation, he guessed the answer was no but again, if the Town of New Scotland was to decide to establish a water district, the application goes to the State of New York and not to the Town of Bethlehem. He said the State of New York is the one who makes the final decision on the water supply applications and the Town could become either a cooperative individual or a not cooperative individual depending on what the Board would do. He further said the final decision is with the State of New York. Councilwoman Galvin said, in other words, if the Town went with the 150 foot extension, the Town could end up being extended even further.

Supervisor Ringler said one of the things, if they build within the 150 feet, we do not have a choice now. Councilwoman Galvin said we still have to provide... still once the Town does that, if they do build within the 150 feet, we could still find ourselves being sucked into a further extension. Mr. Secor said he does not think they are tied together, he really does not. He said one thing, just to point out and he does not know if he pointed it out in the memo or not, across the street where the Mayfair drive in theater was, there was a proposal for a home center. He said they came in with a design that was within the 150 feet, in their petition to the New Scotland Town Planning Board, they said for purposes of truck maneuverings -- since it was a lumberyard, home center thing -- it made a lot more sense to move the building back further to give better truck turning radius. This was discussed by the Board, according to Mr. Secor, and eventually was agreed to, that we had to service them. It was one building on a site, Mr. Secor said, and it was zoned properly for that and the Town of New Scotland approved it and the Town of New Scotland requested we do this. Eventually the Town Board did approve this, he said, but they said this is it, this is the use you are proposing, we are not going to have all these apartments in here, way beyond or something, it is for a specific use. Mr. Secor said this never got built but it was discussed and it was eventually said they need fire protection and things in conjunction with this, the Board set forth the condition that if this was built that they would also sign a contract with the Water District to make a payment in lieu of taxes, since this is out in the Town of New Scotland and it is untaxable by the Water District. He said they were going to make the payment in lieu of taxes for the benefit of getting this fire protection. Again, Mr. Secor said if this unit were to be moved down in better relationship here... he is thinking more of the sanitary sewer than just the water but the water is certainly another complication. If you start running an 8 inch water main in here, Mr. Secor said now you have an 8 inch water main in the middle of the site, now if they go for a district extension and it goes before the water supply application, they can say the water main is already there.

Attorney Kaplowitz indicated that it would be very difficult to bail out of it later on, very difficult.

Councilman Gunner asked, Bruce that other property where you said the Heavenly Inn and Mr. Secor indicated the Heavenly Inn is right here, that is a separate ownership, as far as he knows that is a separate ownership. Councilman Gunner continued and that other smaller piece there, he can't tell there are so many pieces. Mr. Secor responded that there was a property line that runs here and the rest of this is one big chunk and then there is just this. Councilman Gunner asked how about just to the right of where you had your hand. Mr. Secor indicated that this is an individual private parcel. Councilman Gunner indicated, no, the other side of the water main just to your left there. Mr. Secor asked this piece here, that again this whole block is part of the vacant farm land, it is just one big expanse of property. Supervisor Ringler asked if the Heavenly Inn gets water from us. Mr. Secor responded, yes, but there is no sewer service, again they have their own curbside sewers. Supervisor Ringler asked if the sewer service could be sized to just meet this need and if we could require that. Mr. Secor replied, no, because the reason is flush and velocity. He said we can say that you can only have a four inch main, or you can only have a three inch main, but for fifty units the pump station only might run fifteen minutes out of the whole day and the rest of that time the line is sitting there. He said we have to size the line so that when the pump station does come on it has the flush and velocity to keep it clean. He said the force main brought out here... the only way to tie this up is contractually and say we are servicing this and only this at the outset. Supervisor Ringler asked if the State of New York or DEC gets involved in the sewer as they would with the water. Mr. Secor indicated, they would not because the processes are different and again we have never gone through this really on the sewer side. He said when Heldervale was serviced, it was a joint application and it was approved because it was a cooperative effort and we were providing sewers all of the way out to the Town line. He said this was a subdivision right on the edge of the Town line and that was picked up. It is a Town of New Scotland Sewer District, according to Mr. Secor, but this is beyond and way outside of that also.

Supervisor Ringler asked if there were any comments. Councilman Gunner said he thinks we should stick to what we originally said within the 150 foot and he guessed he would like to see more before I decide, that's for water, before we decide on sewer, more than what they gave us. Supervisor Ringler said he thinks if he could, he could write back to him and tell him that we could look favorable on something such as being proposed as long as it is within 150 feet but before any final decisions have been made, we want the specific plans presented to the Town. Councilman Gunner said just for himself, right now he would only look favorably on the water at 150 feet. He said he wants to know a lot more before he looks favorably on the sewers. Supervisor Ringler asked what he would like to see. Councilman Gunner said a lot more about sewers, where the main goes and what it can expand to. Supervisor Ringler asked Mr. Secor if the Town can control the sewer. Mr. Secor said only by contract with the Board, this is the only way he knows. Councilman Gunner said he would want to see the contract. Mr. Secor said we have a contract with the Town of New Scotland to accept the wastewater from Heldervale sewer district and if they want to extend that, they should have to come back to the Town to extend the boundaries because it is a metes and bounds description. He said this could possibly be a contract with that particular apartment group and that would be the extent of it. He said this would be the only customer out there that we are going to receive water on or sanitary waste from. Councilman Gunner said he guessed he would also want to know how many other houses do we pass that are being serviced by sewers. Mr. Secor said there is very light density, there is the great big house that sets with the pond in front at the corner of Upper Font Grove and this, and there might be -- Councilwoman Galvin said there is another -- Mr. Secor said he thought no more than two houses that sit back in quite a bit. Mr. Gunner said the big white house is more than 150 foot back, isn't it. Councilwoman Galvin said it is. Mr. Secor said that is a customer, that is an old, age old customer. Councilman Gunner said okay. Mr. Secor further commented as is everyone else. He said there is only one house on Upper Font Grove Road that is not a customer -- actually that is not true, every house on Font Grove Road is a customer. Mr. Secor said there is one vacant parcel that is not serviced. He said every other house that you see as you drive through here is serviced, has water, some of which date back to the turn of the century.

Councilman Gunner said it is not that he would not like to see the senior, low income senior citizen, built because certainly there is a need for it, the problem is that we have to know that we protect our community as well, before we go ahead with it and he does not think we have enough information for the second part of it. Supervisor Ringler asked if there were any other comments. Councilman Webster said he agrees with Councilman Gunner, that this has been our program in the past and he thinks we are being consistent in what Mr. Gunner is saying. He said he agrees with him.

Supervisor Ringler indicated if this was the case, he suggests that he writes to them and tell them that if they want to submit some more specific information to us that the Board would consider it.

Supervisor Ringler asked if there was a question. Mrs. Capone asked if we already service some houses off Font Grove Road that are in the Town of New Scotland. Supervisor Ringler said we do and Mr. Secor confirmed that we do. Mr. Secor said they are not in the sewer district. Mrs. Capone further asked if we are going to service all that about the Town -- asking if they are going to come back with other areas that about the Town. Mr. Secor said we service all the homes on Upper Font Grove Road. He said some of them have private service lines that go in, and are very, very old lines, but they have been in there for many, many years. He said there is a water main that goes out Font Grove Road and underneath the railroad tracks which the Town is in the process of replacing. He said this was in the Spotlight this week. Again, Mr. Secor said this is a line that was in... there was water on Font Grove Road before there was water in Delmar. He said this is a very, very old part of the system, but it is in the Town of New Scotland. Mr. Secor further explained the Town of New Scotland has formed a water district, Font Grove Water District, to take this in -- that is under way -- along New Scotland Road there are a number of houses that are served, some are within the 150 feet, some are beyond that. He said, again based on very, very old systems or lines that are

in there. He said over the past 10 or 15 years, the Town Board has set a policy that they would not service beyond without a water district. He said this is the policy that we are still working under.

Mr. Schanck said this whole parcel is zoned commercial/industrial, asking if he got that right. Mr. Secor said on this map that he is looking at, it shows a line and it says commercial this side and industrial in the back. He said the Town of New Scotland has gone through a master planning process and there has been some recommendations for changes of zone. Where this all stands out there, Mr. Secor said he is not 100% sure. That is what shows on the map, according to Mr. Secor. Mr. Schanck said he guessed then that some of the Board's concern is opening this up with a big water main, may invite industries and we are not too thrilled with having this happen. Supervisor Ringler said we are very concerned about expanding the water outside the Town of Bethlehem. Mr. Schanck said then if you ran sewers, that you are concerned about what they will put into it. Mr. Ringler said there is a concern about an expansion of that as well. He further explained that we have facilities that meet our needs and we have excess capacity, indicating there is no question about that -- at the sewer level at this point in time, but, on the other hand, we are not in the business of encouraging this type of growth outside of our Town. However, Supervisor Ringler said this is a situation where a project such as this -- we have been trying to attract a senior project in an area of our Town as well -- is very difficult to come by. He said it might meet some of the needs of our community and our seniors because it is very close to our Town. He said they would have use of it but he said his feeling and, he thinks the sense of the Board is that if we do this, what he thinks they are saying is, we want it limited to that particular project and we want to make sure that we have the controls in place that do limit it to that particular project. Mr. Ringler thanked Mr. Schanck.

Approval
Counsel
Niagara
Mohawk
Litigation

Supervisor Ringler said the next item is to consider recommendation to hire special counsel to assist in the Niagara Mohawk assessment litigation. He said as the Board is aware, Niagara Mohawk for the last two years has taken legal action to reduce their assessment in the Town of Bethlehem on the steam plant. He said we are certainly in disagreement with them at this point in time. He said as we all know, their current assessment is approximately \$15,000,000. and they want it reduced to \$3,000,000. which we feel is quite absurd and we have been defending this, however, this is a very specialized area. He further said after discussing it with our own counsel and the school district, due to the fact the school district has become a partner in this process because the school district will lose substantial revenues if Niagara Mohawk is successful -- and they are very concerned about that -- and we have had discussions with them and their board last week. He said the school district agreed to work with us and to assist with payments for the special counsel. He said we are going to be 50/50 partners in this defense. He said this is going to require very specialized litigation, specialized defense, probably hiring of specialized appraisers to be looking at this utility to insure that we do protect our interest. Supervisor Ringler said the school district and members of our Town Board interviewed potential candidates, he thought last week, there were 3 or 4 potential candidates for the position and as a result of that meeting it has been recommended that we hire the firm of Bond, Schoeneck & King and in particular from their firm, Mr. Carl Rosenbloom. He said the school district at their meeting last week authorized this and Ms. Galvin and Mr. Gunner were both a part of the interview process. He asked if they had anything to add. Ms. Galvin said she thinks that Mr. Rosenbloom gave a very good presentation. She said she knows he is very competent in his field and is someone who she feels very comfortable with. She said the other candidates gave good presentations but she thinks Mr. Rosenbloom would be far superior for our needs. Councilman Gunner said he agrees with what was said.

Supervisor Ringler asked if someone would like to make a motion. Ms. Galvin made a motion to authorize the hiring of Mr. Carl Rosenbloom of the office of Bond, Schoeneck & King, Attorneys at Law, 111 Washington Avenue, Albany, New York to assist with the Niagara

Mohawk Assessment Litigation. The motion was seconded by Mr. Gunner and passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

- - -

Mrs. Marie Capone asked if there is any idea of what this thing is going to cost. Supervisor Ringler said he did not know. He said the fees are based on an hourly scale and it will cost substantial dollars for an appraisal but the bids have not been received in regard to what an appraisal will cost. Mrs. Capone said the appraisal is small potato, the attorney. She asked how much the attorney is going to cost. Attorney Kaplowitz said the appraisal is not small potatoes. Supervisor Ringler said the appraisal is definitely not small potatoes. Mrs. Capone said cost paid to the attorney, Mr. Kaplowitz, come on. Supervisor Ringler said an appraisal such as this may cost \$20,000.-\$30,000. Mrs. Capone said and the attorney. Supervisor Ringler said it is on an hourly fee, partners rate is \$185. per hour, associate is \$130. an hour and paralegal \$65. an hour, which are normal legal fees. He said we have far more to loose, for every million dollars in lost assessed valuation, the school district loses \$200,000. He said it is not something we want to take lightly. Mrs. Capone said what about when they move. Supervisor Ringler asked when who moves. Mrs. Capone said Niagara Mohawk. Supervisor Ringler said he hopes that never happens. Mrs. Capone said yes, right.

Mr. Schanck asked what instigated Niagara Mohawk to start down this path. Supervisor Ringler said he does not know what the motivations are, they have been doing this throughout the State. Over the years, Mr. Ringler explained, to be frank, our assessor basically accepted Niagara Mohawk's numbers and we worked very closely with them on their improvements and so forth. He said there was not an awful lot of disgruntlement on their part, because basically we were listening to what they had to say and looking at their numbers. Supervisor Ringler said then suddenly they decided that they wanted to change that. He said he does not know what their corporate feeling is on that but he did hear that the Public Service Commission came down on various utilities telling them that they better start, instead of just passing that on to the users, that they would have to start looking at defending and protesting. He further said, he believes this is what happened and noted it is not unique to Bethlehem, it is happening all over the State. Councilman Gunner said in fact, the agency of the State is urging them to do it. Supervisor Ringler said it is very difficult, particularly when we did accept their numbers. He said we feel this \$3,000,000. is absurd because basically it is a book number. He said they have not substantiated it from their prospective and we are going to make sure we do not loose any tax dollars that we are entitled to. He said this is why we want to go through this process.

Supervisor Ringler said the next item is to adopt the 1992 Budget.

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,

Adopt
1992
Budget

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, 1992, 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 Ms. Galvin, was seconded by Mr. Webster and was duly adopted by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

- - -

Councilman Gunner said he would just like to thank the Comptroller for making those other few corrections that were not monetary. Supervisor Ringler said good thing you did it and Mr. Gunner said you are darn right. Mr. Maher said he knew he would say something.

Approval
New
Scotland
Road
House No.
Scoons

Following was a request from Department of Public Works for assignment of New Scotland Road house number for the Scoons residence, according to Supervisor Ringler. He read the following memorandum.

MEMORANDUM

TO: Members of the Town Board
FROM: Bruce H. Secor, P.E., Commissioner of Public Works
DATE: October 24, 1991
SUBJECT: Proposed House Numbers, Couse Lane, Slingerlands

Attached is a map which shows proposed house numbers for Couse Lane in Slingerlands. A problem has been brought to my attention for the parcel shown as #16 Couse Lane which is owned by Mrs. Scoons. This residence is one of the older houses in Slingerlands and was constructed facing New Scotland Road. It has always carried a New Scotland Road street address. The vacant lot between the Scoons residence and New Scotland Road is owned by Mrs. Flanigan and essentially appears as the large front yard for the Scoons residence.

It is my recommendation that the Scoons residence remain with the New Scotland Road address until such time as any change occurs on the vacant Flanigan lot. If a home were to be constructed on the vacant Flanigan lot then it would make more sense to assign a Couse Lane house number to the Scoons residence. However, if no building is ever built there, it makes practical sense to leave the Scoons residence with a New Scotland Road address since it faces New Scotland Road.

Please contact me if you have any questions or require any further information.

- - -

The motion was made by Mrs. Fuller and seconded by Ms. Galvin to approve the Scoons residence on New Scotland Road remaining 1463 New Scotland Road, Slingerlands. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Approve
Go To Bid
Tree Work
and
Uniforms
Highway
Dept.

Supervisor Ringler said the next item was a request from Martin Cross, Highway Superintendent, to go to bid for Tree Work and Uniform Service. He indicated the advertising could be done on November 20, 1991 and open bids on December 2, 1991 at 2:00 and 2:15 p.m. respectively.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that the Town Clerk advertise for bids for All Tree Work (Removal, Pruning and Preservation) and Uniform Service for the Highway Department in THE SPOTLIGHT issue of November 20, 1991 and bids be opened and read on the 2nd day of December 1991 at 2:00 and 2:15 p.m. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

The following item, according to Supervisor Ringler, was a request from Suzanne Shepardson, Business Office Manager, to go to bid for Materials and Chemicals for the year 1992. This could be advertised on November 27, 1991 and open bids on December 10, 1991 at 2:00 and 2:15 p.m. respectively.

The motion was made by Mr. Webster and seconded by Mr. Gunner that the Town Clerk advertise for bids for Materials and Chemicals for the year 1992 in THE SPOTLIGHT issue of November 27, 1991 and bids be opened and read on the 10th day of December 1991 at 2:00 and 2:15 respectively. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Approve
Go To Bid
Materials
and
Chemicals
Dept. of
Public
Works

Supervisor Ringler said the next item is a recommendation from Bruce Secor, Commissioner of Public Works, for reduction in bonding for Adams Woods Section I subdivision and acceptance of a deed for Sudbury Road, pending approval of the Town Attorney. Mr. Ringler said the reduction recommended is from \$150,000. to \$20,000.

Reduction
in Bonding
and
Accept
Deed -
Adams
Woods
Section I

The motion was made by Mr. Gunner and seconded by Mr. Webster that the reduction in bonding from \$150,000. to \$20,000. for Adams Woods Section I Subdivision and acceptance of a deed for Sudbury Road in the same subdivision be approved and accepted. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Supervisor Ringler said following was a request from Martin Cross, Highway Superintendent, for Transfer of Funds in the amount of \$4715. from Insurance Recovery account to the Highway Garage account. He explained this is a result of recovery of insurance, for damage to the building.

Budget
Transfer
Highway
Dept.

The motion was made by Mrs. Fuller and seconded by Ms. Galvin that a transfer in the amount of \$4,715. be made from Insurance Recovery to Highway Garage to cover cost of repairs to the Highway Garage structure. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Supervisor Ringler next acknowledged receipt of the Highway Equipment Inventory from Martin Cross, Superintendent of Highways. Councilman Gunner asked if this is done once a year. Supervisor Ringler said it is required by Highway Law. Councilman Gunner thanked the Supervisor.

Acknowledg
Receipt
Highway
Equipment
Inventory

Supervisor Ringler said the next item was a request from Bruce Secor, Commissioner of Public Works, for consideration of request for out of District water service for Brian Fiset, 538 Elm Avenue, Selkirk. He read the following memorandum.

Approve
Request
For Water
Service
538 Elm
Avenue -
Fiset

MEMORANDUM

TO: Members of the Town Board
FROM: Bruce H. Secor, P.E., Commissioner of Public Works
DATE: October 29, 1991
SUBJECT: Request for Out of District Water Service
Brian Fiset, 538 Elm Avenue

Mr. Fiset has purchased property at 538 Elm Avenue. This parcel of land is beyond the boundaries of Water District No. 1. It is approximately 280' southerly of the existing water district boundary

near Peel Street. There is an existing 16" diameter water main on Elm Avenue which only extends 31' past the intersection with Peel Street (see attached drawing). Mr. Fiset is requesting permission to tap on to the end of this water main with a private service line to service his property. There are two other residents across the street which are also beyond the boundary of the Water District and are currently served as "Out of District" customers.

I recommend the Town Board approve this request since this parcel is so close to the existing District boundary line and also since we are in the process of trying to organize a Water District Extension for this area. If the Town Board grants this request, Mr. Fiset should be required to sign an agreement with the Town stating that at such time as the District is extended, he will participate in the Water District Extension. I have explained this process to Mr. Fiset and he agrees to come into the Water District when possible. I have attached copies of the drawing showing the existing water mains at Elm Avenue and Peel Street and showing the water mains in the general area.

Please contact me if you have any questions or need any further information.

- - -

Supervisor Ringler asked if there were any questions. Councilman Webster asked Attorney Kaplowitz if Mr. Fiset could be bound by the agreement. Mr. Kaplowitz noted this has been done before. Supervisor Ringler noted he has to pay for the work to tap into the system.

The motion was made by Ms. Galvin and seconded by Mr. Webster that the property located at 538 Elm Avenue, Selkirk, owned by Mr. Brian Fiset be and it is hereby approved to tap into the Water District pipe line to service this property. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Supervisor Ringler said the next item is a resignation received from Alan K. Riedel, P.E., Senior Engineer, Department of Public Works, effective December 1, 1991. Mr. Ringler explained Mr. Riedel is retiring after long and faithful service to the Town and he is going to be missed.

Accept
with regret
Resignation
of Senior
Engineer -
Alan Riedel
Dept. of
Public
Works

The motion was made by Mr. Gunner and that we make a statement or a letter of commendation, seconded by Ms. Galvin to accept with regret the resignation of Alan K. Riedel, P.E., Senior Engineer, Department of Public Works. Supervisor Ringler noted a letter will be sent. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

The Supervisor said next was a recommendation from Richard Webster, Deputy Comptroller, for award of bid for non-stock office products and central stock office products to Johnson Stationers of Delmar, New York, the low bidder.

Award Bids
For Non-Stock
Office
Products and
Central Stock
Office
Products

The motion was made by Ms. Galvin and seconded by Mr. Gunner to award the bids for Non-Stock Office Products and Central Stock Office Products to Johnson Stationers, Inc., Delmar, New York. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Supervisor Ringler said the following item was the approval of minutes for September 25, 1991 and September 30, 1991 distributed on October 9, 1991.

Councilman Gunner said he had two questions. He thinks, on the September 25, 1991 one which does not deal with the minutes itself but a question about the minutes. He said we said that we accepted a report of the Emergency Task Force which we did and to establish a committee to carry forth their recommendations, where are we on that -- just out of curiosity, it has been about 6 weeks. Supervisor Ringler said he has written a letter and is setting a meeting up -- and as Mr. Webster has pointed out to me, there is a typographical in that letter -- supposedly for next Wednesday night with a Chief and a Chairman of each of the districts in the committee to discuss that report prior to putting anything further together on it. He said there has been a lot of questions on it and after that meeting, then he will have a better feeling as to what kind of a committee should be set up and get back with a recommendation.

Approve
Town
Board
Minutes
Sept. 25
and
Sept. 30

Councilman Gunner said he has one other question, page 64, paragraph 2, where he is discussing, toward the end of his discussion, about the letters that we all received during the CLAWS writing campaign they had to all the council people, all members of the Board. He said he commended them for their democratic action and their work and everything but I did take offense or exception to their statement that, their words were you and each letter was addressed individually so they meant each of us individually that he did not think that was the best idea. He said he made a few other comments about it but it gets confusing where it says that he thought it was brought up by Fred, one meaning they had all understood but had signed the letter and somewhere, someday, somebody might say well, why didn't you speak out against this thing. Well, he has and it should really gets confusing of who is saying it. He said it should, I have, I was the one who said the letter should come out this way. So it should be I have because he, leaves any one of 3 people open. Supervisor Ringler asked the Deputy Town Clerk if she understood the corrections. Ms. Newkirk indicated if there was any problem, she would contact Councilman Gunner.

The motion was made by Mr. Webster and seconded by Mrs. Fuller that the Town Board minutes of September 25, 1991 and September 30, 1991 be approved with correction. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Supervisor Ringler said the next item was a recommendation from Terrence W. Ritz, Department of Public Works Engineering Division for assignment of proposed house numbers on Clara Avenue, Fisher Boulevard, Borthwick Avenue, Feura Bush Road and Delaware Avenue. The Supervisor indicated this is our usual request, since we are getting everything numbered in Town in preparation of the 911 system.

Approve
House
Numbers -
Clara Ave.
Fisher
Blvd.
Borthwick
Avenue,
Feura
Bush Rd,
Delaware
Avenue

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that the proposed assignment of house numbers be approved. Councilman Gunner said, as per usual every time we talk about house numbers, I will... Supervisor Ringler said please put the number on the house. Mr. Gunner said he was out tonight looking for a residence and I had trouble with... and it is right on Feura Bush Road so you know where I was looking and why and there were several without numbers and I had to get in and out of the car and fortunately, it was not an emergency but I would worry about emergency vehicles. Supervisor Ringler indicated people do not think about it until it hits them. Councilman Gunner said he knows. Mr. Ringler said this is the problem. Mr. Gunner said he noticed the Elsmere Fire Department and, Fred, I guess other fire departments will be sending home a notice but some people I don't know whether they have it on their storm doors and take their storm doors or their screen doors down I don't know what happens sometimes. Councilman Webster said in the summer time, they paint over them and do various things to them.

The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Appt.
Seasonal
Personnel
Parks &
Recreation -
Tabled

Following, according to the Supervisor, is a request from David Austin, Administrator of Parks & Recreation, for approval of appointment of seasonal personnel.

Senior Lifeguard at a rate of \$6.70 per hour.

Linda Brown
R.D. #2, Box 221B
Ravena, NY 12143

Senior Lifeguard at a rate of \$7.10 per hour.

Terry Smith
47 Edward Street
Cohoes, NY 12047

A motion was made by Mr. Webster and seconded by Mrs. Fuller to approve the appointments. Councilman Gunner said he had a question, thank you. He noticed that both people are from out-of-town and we have quite a few lifeguards trained within our own community by our high school staff and so forth, I just wondered is this a special type of thing or have they been with us a long time. Supervisor Ringler said he did not know and Mr. Austin was not in attendance. Councilwoman Galvin indicated she joins in Mr. Gunner's question on that, noting the same out-of-town status. Councilman Gunner said there might be a perfectly logical reason that they are doing it for a special group or something like that that we do not have. Supervisor Ringler said he did not know. He knows that Mr. Austin does attempt to hire within the Town first, indicating sometimes he hires teachers that teach within the school district that live out-of-town. He said in this particular case without him being here, he does not have an answer. Ms. Galvin asked if there is any rush in approval on these. Supervisor Ringler said he does not think so, noting Mr. Austin has authority and may have these people working already because many times people will quit and he has to replace them. He said if you would like to answer this question and hold it off, it can be done.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that the appointment of seasonal personnel be tabled until such time as further information can be obtained. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Appoint
Member
Traffic
Safety
Committee
Robert
Peters

Supervisor Ringler indicated the next item is a request for approval of appointment of Robert Peters as a member of the Traffic Safety Committee to replace Gardiner Tanner as the school district representative.

The motion was made by Mrs. Fuller and seconded by Mr. Gunner that Robert Peters be and he hereby is appointed as a member of the Traffic Safety Committee. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

The Supervisor said next was a request from Alan Riedel, P.E., Department of Public Works, for acceptance of a deed for highway widening and easement purposes along the north side of Beaver Dam Road pending approval of the Town attorney.

The motion was made by Ms. Galvin and seconded by Mr. Webster that the deeds for highway widening and drainage easements from Torrel D.L. Harris and Lisa L. Harris be and they hereby are accepted as approved by the Department of Public Works and the Town Attorney for Beaver Dam Road and will be recorded in the Office of the Albany County Clerk. The motion was passed by the following vote:

Accept
Deed
Beaver
Dam Road
Harris

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

The next item was a request from Michael J. Cirillo, P.L.S., Department of Public Works, for acceptance of two deeds for the widening of Orchard Street and an easement along the rear yard of 56 Dumbarton Drive, pending approval of the Town Attorney.

Accept
Deeds
Orchard
Street
and
Dumbarton
Drive

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that a deed document for the widening of Orchard Street from Florence Halsdorf and a deed document from Charles and Kay Shafer, III for storm drainage easement in the rear yard of 56 Dumbarton Drive be and they hereby are accepted as approved by the Department of Public Works and the Town Attorney and will be recorded in the Office of the Albany County Clerk.

Councilman Gunner said the second part there, 56 Dumbarton Drive is that the big ravine down there. Supervisor Ringler indicated it was, right near the Schaeffer's house. Mr. Schenck asked if this was for all of Orchard Street or... Supervisor Ringler said it was just for a section. Councilman Gunner said it was 30 foot, I think it was. Mr. Schenck said it is inordinately narrow.... Mr. Gunner said there is a big drainage thing that goes underneath the road. Mr. Webster said it is between 176 and 188, the Halsdorf property. Supervisor Ringler agreed it is the Halsdorf property. Mr. Secor said this is where there is one new house being built right on the top of the hill and there is a vacant lot existing. He said this was something the Planning Board required as part of the subdivision process, it is a two lot subdivision.

The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

The next item on the agenda, according to Supervisor Ringler, is a request from the Police Department for approval of leave of absence for Frances C. Markel, Telecommunicator.

Approve
Leave of
Absence
Frances C.
Markel
Telecomm.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the two month leave of absence for Frances C. Markel, Telecommunicator, be approved. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Supervisor Ringler said the next item is a request from the Comptroller's office for transfer of funds from contingency to debt service. The amount is incorrect and the Supervisor said the final close out is \$16,121.00. He said this was just received at the last minute.

Transfer
of Funds
Comptroller
Office

Ms. Galvin asked if this was still related to the salt storage shed. Supervisor Ringler said it was and that various BANS are out there that we sold serial bonds for.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to approve the transfer of \$16,121.00 from Account A1990.4 Contingent Account to Account A9710.7 Debt Service Interest. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

- - -

Councilman Gunner explanations please. I would like question please and I would like an explanation of why we have to do this. Supervisor Ringler asked why what. Councilman Gunner said transfer the funds. Mr. Maher said when we did this, we did not know exactly how much we were going to use out of the BAN and out of the issue. He said if we did not use the whole thing, we could use that to pay off the debt service. Mr. Maher said, unfortunately, not knowing exactly what the amounts were going to be at the time -- since this was done late in October of last year -- we have used most of the bond money, at least in the salt storage area and in the motor vehicle area. Because of this, Mr. Maher said, you cannot go beyond bond resolution to pay the interest because we have to pay them currently. Councilman Gunner thanked Mr. Maher.

Supervisor Ringler said a personnel matter has come up that he would like to report on at the end of the meeting and asked for a motion to have an executive session.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to hold an executive session at the end of the regular Town Board meeting to discuss a personnel matter. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Discussion
Parking
Restrictions
Grove Street

Supervisor Ringler asked if there were any questions. Councilman Gunner said he had two things. First of all, when I was down at the Four Corners Luncheonette which is not on the four corners as we know, it is on Grove Street, I was sitting there and I was asked to sign a petition about action that we took I think it was October 9th and I know that the petition has been delivered to Ken and I just wondered when we would be considering this and so forth. Supervisor Ringler said he has not met with the Chairman of the Traffic Safety Committee as yet. He said they have a meeting either on Thursday or Friday to discuss this issue. He further indicated he wants them to review this and then bring it back and see if they have a recommendation as to how they might address the concerns of that merchant. Mr. Ringler said he made some suggestions as to how it might work and Mr. Ringler said he wants to pass them on to the Traffic Safety Committee so that the Town Board will get a recommendation.

Councilman Gunner said he did learn a lesson out of it though. I am usually one that doesn't like to vote on a public hearing the night of the hearing and I did, even though I had many, many questions, exactly that were brought up and now, I feel we did act swiftly. So, hopefully, they will work that out, thank you.

Discussion
Glenmont
Plaza
Certificates
of Occupancy

Councilman Gunner said the second question is I have had people, one person in Town that contacted me who happens to be in the construction business is concerned about Certificate of Occupancies for somebody he did work for up at the Glenmont Plaza and it is... there are two stores, two small stores up there that are not getting a CO and I guess my question is that these two small businessmen are not getting COs and Grand Union and CVS and Ames and the bank all got COs, what does that say. I have a concern with what is happening. Supervisor Ringler indicated the Planning Board is doing that. The Planning Board, when that project was originally approved, according to Supervisor Ringler, were in dispute over the entrance onto 9W. The Planning Board had wanted a turn lane for traffic safety and so forth, he said. There was a time that the developer was trying to acquire additional lands to do that and get the necessary approvals from DOT to allow it, he further noted, and the project was being built while that

was happening. The original approval document, as he recalls, stated that that issue had to be resolved before any COs could be given out. As Supervisor Ringler understands it -- and Mr. Secor has gone to more Planning Board meetings than he has -- on a one by one situation the developer has been coming back saying would you please give me this CO, would you please give me that CO and they have honored them on a one by one situation. He said he understands that now, they are still in a dispute over this, apparently they do have a method of doing it, they can acquire the land and now the developer does not want to put the turn lane in and the Planning Board is using what leverage they have to force them to put the turn lane in and their only leverage is COs. Mr. Ringler asked Mr. Secor if he concurred with this information. Mr. Secor said that is pretty close. Supervisor Ringler asked Mr. Kaplowitz if he were aware of what is going on also. Mr. Kaplowitz said he was, a little bit, having received a call from an attorney in Troy, on behalf of one store or proposed tenant and he did not know there were two. He said he put her in touch with Attorney Alessi of the Planning Board and the last Attorney Kaplowitz knew, he was going to contact Mr. Barr, Chairman of the Planning Board and the Planning Board was going to take another look at the whole thing. He further noted he does not think anything has happened since, it was only a few days ago.

Councilman Gunner said well because these are two small businesses and I don't know, I guess I feel uncomfortable with... if you don't want me to say anything else, go ahead. Mr. Kaplowitz said he understands. Mr. Secor said he just wanted to say, the Planning Board has been very open and very forceful in trying to get this turning lane put in. At the time the second CO was issued, it required the turning lane to be bonded and that bonding was taken to ensure its construction, according to Mr. Secor. He further said the developer has not paid a number of people involved in it and we have been unable to get final plans from the consulting engineer that did the design work because the consulting engineer has not been paid. So, this whole thing is sitting in limbo, Mr. Secor said. When the next applicant came along, the Board had a very extended discussion about this and it is very clear in the record that the Board at that point said no further COs would be issued until this turn lane was installed. The applicants who got the two stores, according to Mr. Secor, should have known, in fact were told before they started that that was the condition. Mr. Secor said there is a real discrepancy. Councilman Gunner asked if this was on the application for the CO or an application for the building within it. Mr. Secor said at the time of the application for the building permit, it is his information that they were told that there would be a problem getting the CO unless this turn lane issue was resolved. So, Mr. Secor stated, they had been noticed on that. Now, whether you are going to get two stories that coincide on that or not, Mr. Secor said he did not know. He said the record is absolutely clear, it has been all voted at public meetings, it is absolutely forward as to what is going on.

Councilman Gunner said I guess I am not questioning, I guess what I am questioning is the perception that big companies get taken care of, small businessmen may go broke before they open because they have the Christmas season in front of them and if they are not open for that, they are out of business. Attorney Kaplowitz said he does not think what happened the way it occurred is not big or small, it was who came first. The Planning Board just reached a point, Mr. Kaplowitz stated. Councilman Gunner said why did they... if they were having problems with that why did they offer a CO at all. Attorney Kaplowitz said they do not offer it, somebody applies for it. Councilman Gunner said applies for it, why did they give that at all. Attorney Kaplowitz said they granted it because they had reason to believe that they were going to put in the turning lane. He said it got to a point after granting a few that it was not getting put in, so they decided it was time to draw the line. Again, Mr. Kaplowitz said, not big or small but in point of time. Councilman Gunner said they may not say big or small but it gives.... and I agree with you, I am not saying anything... did anything intentionally wrong but it certainly gives the perception as I listen to it that oh now we have two small businessmen, one is a Chinese restaurant, the other is a shoe store and no they are not going to get it so they did not do anything wrong but the... Mr. Secor said he disagrees with that. Attorney Kaplowitz said you are talking about a developer who knew from the very beginning. Councilman Gunner said

he is not talking about the developer, he is talking about the tenant. Attorney Kaplowitz said to please wait, the developer is leasing space to a tenant that he knows he cannot get a CO for. If anybody did anything wrong, according to Mr. Kaplowitz, it is the developer. Councilman Gunner said he did not say anybody did anything I said who didn't do anything wrong. Attorney Kaplowitz said he is not so sure, his point is that the developer knew that he was going to have trouble getting a CO, he had been told. Mr. Kaplowitz said he went ahead and signed leases with these tenants. Councilman Gunner asked who is getting punished in the process. Attorney Kaplowitz said the tenant, certainly is, but that is... Councilman Gunner said justice stinks, is that what you are saying. Attorney Kaplowitz said no, not at all.

Councilman Webster asked if the tenant was aware of this when he got a building permit. Councilman Gunner said he could not find any proof in only one building application that I looked at and I could not find anything on the other one so probably they used the store as was, there was nothing in writing in the file that I found while I was up there looking. Supervisor Ringler said he has asked the same question of the Building Inspector and he said there is nothing but he insists that they were told verbally that this would be the case.

Councilwoman Galvin asked Mr. Secor if the original COs that were issued were final or conditional. Mr. Secor said he did not know. Attorney Kaplowitz said he thinks they were finals. Ms. Galvin said this is something she would like to know. Mr. Kaplowitz said it is rare to give a conditional one, however, it is done. Councilwoman Galvin said if they were that involved with the turn lane, they could have issued conditionals on it. Attorney Kaplowitz said he does not know. Councilman Gunner said he would appreciate very much, Ken, if you could look into that as best you could and find out what... Supervisor Ringler said the problem is, he thinks that the Town Board does not have any authority. Mr. Gunner said he knows that. Supervisor Ringler said it is a Planning Board decision. Councilman Gunner said then I will go as a citizen to the Planning Board if necessary. Supervisor Ringler said this would be fine. Attorney Kaplowitz said the last conversation he had with the Planning Board attorney is -- he did not want to say anything the wrong way -- but he thinks he said that there was a new proposal coming from the developer. He said apparently, the developer claims that the turning lane is a \$300,000. proposition and he is not sure, but he was going to come up with some proposals or some other way of --- I am trying to think of what it was, he was not going to pay for it. Mr. Kaplowitz said he was going to pay for it but out of future revenue. He said the developer asked if he did it could he pay for it after a certain period of time. Mr. Kaplowitz said he is not sure about the details. Councilman Gunner said there is some possibility... Mr. Kaplowitz said there are some things happening which is all he is trying to say.

Councilman Gunner said again, I guess I go for concern if it were my business and I am not a businessman at all, but I think I would be pretty upset. Mr. Secor said if he could add one other thing, he met with Mr. Barr this afternoon about this issue and he is setting up a meeting with Mr. Alessi and he is going to try to bring this to a head and move on it. He said Mr. Barr realizes the crisis that these small businesses are in, he is sensitive to the small businesses situation. Councilman Gunner said that is what he is glad to hear. He said thank you.

Councilwoman Galvin said she would very much like to know if the other COs were conditional and if they were, why action has not been taken on those. Supervisor Ringler said he did not believe they were but he will find out.

Approve
Establishment
of Capital
Project
Account -
Wastewater
Treatment
Plant
Modifications.

Supervisor Ringler asked if there was anything else. Mr. Secor said there is that one item. Supervisor Ringler said the final item is a request from Mr. Secor that the Town Board establish a Capital Project Account for the Wastewater Treatment Plant modification project in the amount of \$3,100,250.00, as we received the funds for this today and we have to establish the account to put the money into.

The motion was made by Mr. Gunner and seconded by Ms. Galvin that a Capital Project Account be set up for the Wastewater Treatment Plant modification monies in the amount of \$3,100,250.00. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.

Councilman Gunner said just for the students in attendance, did you see how quickly we spend \$3,100,000.00 and how we argue over human welfare. Supervisor Ringler said this was true, indicating when we spent the \$3,100,000.000 we did have a lot more discussion. Councilman Gunner said this was a point, there was much that had gone on before it.

Supervisor Ringler asked if there was anything else to be brought to the attention of the Board. Councilwoman Galvin said there is one item. She said on the Cablevision material received in the packet, she appreciates the fact that there was an attempt to provide some form of a breakdown but if they think this is an accounting practice, she would like to sell them a few bridges. Supervisor Ringler said Ms. Galvin will be meeting with them next week. Ms. Galvin asked if it might be possible that before that meeting is held, they could get some form of documentation besides some... neatly written. Supervisor Ringler said he would speak with Ms. Galvin about it. Ms. Galvin said this was one of her favorite projects. Supervisor Ringler said that is why the new franchise agreement is very specific on what they are supposed to give to us. He said Mrs. Asprion is attempting to set up this meeting.

Mr. Bill Schanck said this may be off the wall. Supervisor Ringler said nothing is off the wall except a few of the Board members on occasion. Mr. Schanck said he cannot really say where he heard it but there is some scuttlebutt on the radio, have you heard anything about proposed legislation on the State level that would modify or extend the right of eminent domain to its use by either private corporations or public utilities. He said this has barring on the dump site matter. Supervisor Ringler said he is not familiar with it. Attorney Kaplowitz said he has not seen or heard anything.

Supervisor Ringler said public utilities, Niagara Mohawk has that right of eminent domain already, limited. Attorney Kaplowitz said it is very limited. Mr. Schanck said ANSWERS, if they were declared to be a public utility... Councilwoman Galvin said she thinks they are talking about public benefit corporation. Attorney Kaplowitz said yes, that is different. Mr. Schanck asked if there is something going on though. Ms. Galvin said this has always been kicking around. Attorney Kaplowitz said he thinks she is saying can ANSWERS become a public benefit corporation, which would not, based upon what you have heard, would not be one of the organizations that would have condemnation. But, Attorney Kaplowitz said he has not heard or seen anything. He said the Town is not aware of anything.

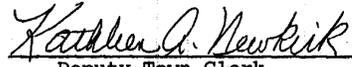
Mr. Schanck asked if something like that was to come about if it would just tie the Town's hands. Supervisor Ringler said the Town is trying to monitor that very carefully but if you know of anything specific, please pass it on to him as soon as possible. Attorney Kaplowitz said the general -- indicated he is not up on this -- the last he knew, bill drafting went back to work usually on November 15th and that is the first time they could prefile bills -- which is tomorrow or two days from now. He said he does not think there is any such thing as a bill pending this minute. Mr. Schanck said no, he said somebody is kicking it around. Mr. Kaplowitz said he is not aware of it at all.

Supervisor Ringler asked if there was anything else. Mr. Schanck said he has a question on an item on the budget but not to

discuss it for budget reasons, just for general information, debt service. He asked if that is payment of principle and interest on bonds. Supervisor Ringler indicated it was. Mr. Schanck said, again, he heard something on the radio and he forgets the name of the term but it basically involves retiring old debt which was issued at a high rate of interest and replacing it with new bonds. Mr. Maher said refinancing. Mr. Schanck said yes, basically refinancing. Supervisor Ringler indicated this was done today. Mr. Schanck said great minds think alike.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to adjourn the Town Board meeting at 8:40 p.m. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin, Mrs. Fuller.
Noes: None.


Deputy Town Clerk

Executive
Session

No formal action was taken at the Executive Session.