

TOWN BOARD
NOVEMBER 13, 2002

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

PRESENT: Sheila Fuller, Supervisor
George Lenhardt, Councilman
Doris M. Davis, Councilman
Daniel G. Plummer, Councilman
Thomas Marcelle, Councilman
Kathleen A. Newkirk, Town Clerk
Robert J. Alessi, Esq., Town Attorney

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SUPERVISOR FULLER: Good evening and welcome to a meeting of the Bethlehem Town Board. Please join us in the pledge of allegiance.

The first item on tonight's agenda is to consider the proposed local law regarding truck traffic Elm Avenue, Route 52, Elm and Cherry Avenue. I will ask the Clerk to read the call of the hearing.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING
TOWN OF BETHLEHEM, ALBANY COUNTY

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on November 13, 2002 at 7:30 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider proposed Local Law of 2002, concerning PROHIBITING THROUGH TRAFFIC OF CERTAIN VEHICLES ON ELM AVENUE (COUNTY ROUTE 52) BETWEEN THE DELMAR BYPASS (STATE ROUTE 32) AND DELAWARE AVENUE (STATE ROUTE 443) AND ON CHERRY AVENUE (COUNTY ROUTE 52) BETWEEN DELAWARE AVENUE (STATE ROUTE 443 AND KENWOOD AVENUE (STATE ROUTE 140).

All parties in interest and citizens will have an opportunity to be heard at the said hearing.

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who need assistance in order to participate should contact Nan Lanahan at 439-4131. Advanced notice is requested.

BY ORDER OF THE TOWN BOARD
TOWN OF BETHLEHEM
Kathleen A. Newkirk, CMC, RMC
TOWN CLERK

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State of New York)
County of Albany)

BARBARA MATTHEWS of the Town of Bethlehem, being duly sworn, says that she is the RECEPTIONIST for 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 30th day of October 2002.

/s/ Barbara Matthews

Sworn to before me this 4th day of November 2002.

/s/ Sharon A. Doldo
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. 30, 2001, 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
13th day of Nov. 2002.

/s/ Catherine T. Picarazzi
Notary Public

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The motion was made by Mrs. Davis and seconded by Mr. Lenhardt 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. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

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SUPERVISOR FULLER: It is now time for you in the audience to speak in favor or in opposition of the local law before the Town Board this evening and the local law is to ban the car carriers over 60 feet. So, please come to the mike. You need to give your name and if you wish to speak in favor or in opposition.

MR. MADDEN: Hi, my name is John Madden. I live in 26 Penn Lane in Glenmont. I am speaking against this Town law to ban the car carriers on the road in question. The... you know, there's been a railroad yard down in Selkirk since at least the late 1920s. New York central rebuilt it in the late 1960s. At that time there was an automotive terminal established there for the transfer of automobiles from rail cars onto trucks for distribution in western Massachusetts, eastern New York, northeaster New York up to the Canadian border, also back out to Syracuse and down the Hudson River valley toward the Westchester County line. Also at that time was established a tractor trailer transfer facility – some people call it a piggy back facility or auto facility – for the transfer of tractor trailers from rail car to highway for a distribution of products, freight, in different areas... the same areas as the automobile distribution is.

In the early 1990s then Conrail transferred the tractor trailer facility to Syracuse where it was consolidated with others from upstate New York. However, the automotive terminal expanded and still remains there.

I am sure almost every person in this room drives an automobile. Automobiles have to get to automobile dealerships via railroad and then via truck. It's much more efficient for the product that is being unloaded in Selkirk that has to go north toward the Canadian border, west towards Syracuse... for the driver to drive from Selkirk along Cherry Avenue. It is a county road, it's... I believe DOT classifies it as a rural arterial but I am not 100 percent sure of that. The road is perfectly capable of carrying trucks. Anybody who has purchased a home there in the last 30 years, anybody who has built a home there in the last 30 years, knew that truck traffic was on that road. As I say, it's been there for decades. So, I think that anybody who is complaining about that traffic and that it should be taken off that road really doesn't have any standing. It's like people building a house next to an airport and then complaining about the airplanes.

So, that's basically, you know, my feeling on it. I think that, you know, freight

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transportation is important. Is a business and Bethlehem already has been getting a bit of an anti-business... anti-business reputation that I don't think is warranted but actions like this just, you know, create inefficiencies in the freight distribution network that are not necessary. It raises cost, raise the cost for people's automobiles and I think that it should not be passed.

SUPERVISOR FULLER: Thank you, Mr. Madden. Please come to the mike.

MRS. RYMSKI: My name is Ann Rymski. Yes, I do agree that that rail head was approved and expanded 30 years ago so the Selkirk GE and Owens Corning. And, if I remember right, our tax dollars went to work to build Route 32 and rebuild that because I remember when Route 32 was actually the Feura Bush Road. So, that road was built to accommodate the truck traffic coming out of the Selkirk yard area. That's why the State sunk the money into it. Had they wanted the road to go someplace else, they would have done something at that time. One of the problems with that road is, if anyone has had the opportunity to be on Kenwood Avenue and attempt to cross that intersection in a car, there are times when it takes your life in your hands and I do believe that there has been a fatality at that intersection. Couple weeks ago, fortunately, has had some improved training. She is now a certified bus driver and that training saved her life. She was at the stop light, it was green for her on Kenwood. She hesitated that second, just as a tractor trailer came up over that brow on 140, made no attempt to hit his jake brakes – anyone from Selkirk can tell you what a jake brake sounds like. He rolled through the red light had my daughter started up, he would have rolled over her and the baby.

Now, I don't know if you know what a car looks like when it's been hit by a substantial truck – I have – on a road as flat as the table you sit on at a traffic light. Well warned that that traffic light was in place now, a woman stopped. The dump truck that was behind her did not, went right up over her car and crushed her. The newspaper the next day showed the picture... it was pretty gory. I did warn the Governor Beesley that when I sent it to him that I hoped it didn't upset his breakfast or lunch. In order to get her body out of there, the ambulance was stuck in the traffic that was miles long. The firemen shrouded her body and put it up on the fire truck. The deputy sheriff's that had the charge to go find her husband they found he was in the traffic jam waiting to move and they had to tell him that the reason the traffic was jammed was his wife had just been crushed to death. I talked to my southern gentile friend, my southern lady friend and explained it was pretty upsetting to me to see this. And, you know, this is again trucks running up and down a road that really the speed is about 45 miles an hour but they've really got to move it. She explained to me that especially dump trucks, young dump truck drivers consider a dump truck an extension of... for polite terms... their physique and often this is how they drive.

Now, I've lived in this area for a long time and rarely did you see a tractor trailer or a car carrier on... there on Elm and Cherry. You really didn't see them but they are increasing and they are increasing and they're increasing. Now, what's going to happen down the road, 15 years from now when this road has been improved, it becomes a major highway actually is what's going to happen. What if we get a tech valley or whatever is now going to replace tech valley in the next 5-10 years and we get the growth like Austin has had. Are they going to come back now and say that this has to be turned into an interstate highway? Is that what we are opening up for? That we are going to have an interstate highway bisect Delmar. Are we going now have it with increased truck traffic that the students on the east side of that road are going to have to be bussed over to their school even though they should be walking? Who's going to pay that cost? And, as you open up to more and more trucks. 32 is built for that. That's what the State tax money went for. Yes, I know the State hasn't finished the roads that they should have finished in 1960 but I also know that they stopped them from ripping out the heart of Slingerlands. We also stopped them, 400 strong sitting in a Presbyterian church... I couldn't be there but I wrote a letter in out of a pouring rain sitting in a church – first time I bet you DOT ever had a meeting in a church in their lives and we stopped Route 85 from ripping apart Slingerlands where the trucks would be

whipping along and then because they couldn't get on the bridge, they would be whipping along on Kenwood Avenue. There are some areas that remain and should remain residential and the thought process should be in there to move truck traffic around residential areas. It may mean asking the State to relook at their plans so that the truckers... yea, they need to get where they need to go but do they have to rip through residential areas and it's increasing, increasing, increasing.

Have a good day, folks.

SUPERVISOR FULLER: Thank you. Anyone else wishing to speak in favor or in opposition please come to the mike.

MR. MOLINSEK: Steve Molinsek. I live at 19 Wicklow Terrace and I would support the proposed law, however, I am concerned that it is too narrowly drafted and isolating one particular type of truck. And, I think that should be noted. This is a residential area. I've heard complaints from the trucking industry that this somehow will add greatly to the long distance cost or the cost of long distance travel to deliver cars yet I've never heard any dollar amount assigned to that and for my unscientific evaluation of this, it doesn't add much if any miles. It might save a toll and that certainly is nothing in comparison to what it is done to the community and I think it's imperative that this Board act and take some steps to alleviate a very, very difficult problem for those that live along this road and the people that are trying to live and contribute to this community in terms of taxes, in terms of keeping up their properties. I am very proud of the area in which I live. It adds a lot to this community. It's a lovely, pretty street and I would like to think that we'll be able to maintain it, however, if the neighborhood goes down and I think it will ultimately hurt the entire Town. Thank you.

SUPERVISOR FULLER: Thank you, Steve. Anyone else. If you will please, just come forward so that we can give everyone the opportunity to speak and I don't have to stop and say please come to the mike. Feel free to come up right now. Okay, sorry to interrupt you before you even started.

MRS. SPRISLER: It's okay, that's the best time to interrupt, then I don't lose my train of thought.

TOWN CLERK NEWKIRK: Wrong mike, please.

MRS. SPRISLER: How about this one?

TOWN CLERK NEWKIRK: Yes, that's it.

MRS. SPRISLER: My name is Nancy Sprissler. I've spoken in front of the Board before about the traffic on Elm Avenue and contrary to the gentleman who is concerned about the truck traffic, when we moved here 27 years ago, there certainly was not the amount of truck traffic. There certainly was not the amount of automobile traffic here that we got now and we were still hoping for the bypass to go through what is now a development at the end of the Delmar Bypass. I certainly am in favor of having truck traffic curtailed. I am also certainly and have mentioned this before that I am in favor of more of a curtailment that car carriers is not a sufficient description of the kinds of truck that cause problems when they go past our home which is right on the curve on Elm Avenue itself. I don't understand why there is a problem in having the kind of traffic that involves trucks, especially from Glenmont to go out 9W to the Thruway and can go in any direction you want to from the Thruway on a major highway. I really don't see why they have to... what do they lose 2 miles and 10 cents or 20 cents in traffic tolls. I don't believe that really affects their business that terribly. I may be mistaken but I think that none of these restrictions would limit local travel anyway if they had to deliver or pickup locally. That would be viable whatever the limits are that we place. So, I obviously am in favor of the traffic being limited. I would prefer it to be limited more strictly but at this point, I'll take what we can get until we can get any further. Thank you.

SUPERVISOR FULLER: Thank you, Nancy.

MRS. CAPONE: I move here 37 years ago. At that time there was a cop named, Delaware Dan. He told me there's 250 cars a day that pass in front of my house. I couldn't believe it. Then there was a cop named Richard Vanderbilt who told me there were 18,000 cars passing in front of my house. At one time, I told you there is a car during the night... a truck that pass in front of my house and it's more than 60 feet. You never asked me why, well I'll tell you. My property is 50 feet and it exceed on my neighbor's property quite a bit. It's a flat bed and it has lights and it has something covered in black plastic. Do you see it sometimes, Lou?

DEPUTY CHIEF CORSI: No, I haven't.

MRS. CAPONE: And, this is why I think that there's thing that have to travel during the night. Mr. Klersy is going to be building, they use big trucks to carry big things. There's duplexes coming at the corner of Bender Lane and the Bypass, they need big truck construction. The biggest truck I ever seen was a Verizon that had something that goes up in the air and that was pulling a trailer with telephone polls. That's more than 60 feet. Okay.

Now, these people they complain about the noise. They're the same people that a couple of years ago stopped Mr. Klersy from building duplexes because they didn't want to have all that in their backyard. There was an accident at the library this summer. The library fenced the whole back. If these people don't like the way it is, they can fence their back the same way.

George said that he followed a truck. The truck came down, down turned right and went out down New Scotland to Albany. Where did they go -- in front of Jerry Jennings house. He lives just off the Town of Bethlehem. You never heard him complain. And they pass in front of his house constantly. Thank you.

SUPERVISOR FULLER: Thank you. Those wishing to speak in favor or opposition of banning car carriers on Elm and Cherry Avenue please come to the mike.

MR. SELKIRK: I'm Ronald Selkirk and I'm retired as being one of those terrible car carrier drivers. I drove for 25 years and I've lived in Selkirk all my life. It's been a few more years than 25. And, these people in Delmar, according to what the State told us, at the last meeting have about the average amount of truck traffic for that type of road and they also told us that Selkirk has 4 times as much and that was on recent figures since the recession. So, where as they were saying 600, when things were busy with car carrying, we were getting 800 and the Town of Bethlehem has done nothing for us. We have asked for sidewalks. I was told, oh there's no money for sidewalks and suddenly I see them crop up along Elm Avenue by the park, Wemple Road but there's money for sidewalks. Now, I don't know how they are paying for them. And, the latest I heard the State offered sidewalks to Selkirk and asked the Town to pay half, oh no, we don't have any money for sidewalks in Selkirk. And, I think something should be changed.

SUPERVISOR FULLER: Mr. Selkirk, I hope you will stay on for after I get through these public hearings so I can respond to what DOT has told you.

MR. SELKIRK: I'll be here.

SUPERVISOR FULLER: Go ahead.

MR. KROTH: My name is Ken Kroth. I live at 137 Elm Avenue which is just above the bypass. I've been there for 36 years at this point in time and have seen nothing but a growth of truck traffic, all kinds by the way, as well as a growth of car traffic. I'm a little disappointed that he Board passed a resolution that stated that this law would be proposed for car carriers only. I believe it to be

discriminatory and I think you open yourselves up for discriminatory action. I think that it should be modified so as to include any tractor trailer that is over 60 feet and, believe me, they are out there, a lot of them and they're... they rumble by and they make as much problem as a car carrier does. So, I would urge you to modify, if you can, this proposed law to include any tractor trailer 65 feet... 60 feet and over. That would include then your car carriers. It wouldn't preclude the smaller traffic that we have to have for deliveries, etc., etc. But, as George knows, from having followed them, and I know from having followed them, that's not the people that we are worried about. We're worried about the trucks that are coming up Elm Avenue, Cherry Avenue over to the Slingerlands Bypass and out. So, therefore, I speak partially in favor of this law and partially for its modification please.

SUPERVISOR FULLER: Thank you.

MR. SPISSLER: I got over my stage fright. Hi, my name is Bruce Sprissler. I live at 80 Elm Avenue in Delmar. I've been there since 1975 so I have some experience and it was more rural then than it is now. People speak of efficiencies and the great costs that would be transferred to truckers and others by banning. I'm not exactly the greatest accountant in the world but I understand cost analysis and I don't see any yet. So, if somebody is amortizing a bond issue against their trucks I don't see that. I would like to see some substance behind the proposal that we're offering a great burden. I see that the trucks can go elsewhere and I do see that they do go elsewhere on 9W. I'm not quite sure what the toll structure is for them. I know they pay a lot of taxes, guess what so do we. I only know that my voice is one of several or many as the case may be looking to you to help remedy this situation. Not to entirely solve it. This probably only a stop gap until something else comes along in life but right now, thank heavens no children have been injured. I don't want to see the Town divided in half in my lifetime. It's a little quick even for me and I look to you because you are our representatives. Thank you very much. So, I vote in favor or whatever vote mean, in favor of please help to reduce the pressure or the burden of the trucking. I also would affirm or look for something in the neighborhood of 60 feet of any kind or larger as opposed to limiting it to just the car carriers. By gosh, there is a lot of stuff that goes banging by my house every night and I... maybe some people don't hear it and that's great for them. But, if you did, you'd know it went by. Anyway thank you very much for your time.

SUPERVISOR FULLER: Thank you. Is there anyone else who would like to address the Board? May I have a motion to close the public hearing.

The motion was made by Mr. Marcelle and seconded by Mr. Davis to close the public hearing at 7:58 p.m. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

Town Clerk

Supervisor Fuller convened the regular Town Board meeting following the close of the public hearing. She asked the Board for discussion on the previous hearing.

Councilman Lenhardt noted he suspected he would not have enough support to push this forward. He still felt that the proposed local law should be modified in section 3 by removing i and ii pertaining to auto carriers and replace it with vehicles of length 60 feet and over and in section iv modify the exceptions, replace Town of Bethlehem with Albany County so that it reads local deliveries and pickups to and from properties located within Albany County.

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Councilman Marcelle said he has been troubled about one thing in regard to the car carriers and he guessed it was raised again with respect to the cost issue. He said there is no analysis, noting it is a phantom kind of issue that is raised. He said, perhaps on the high side, that it was \$150 to reroute the truck you are talking about cargo, 6 or 7 cars, probably easy in excess—giving every benefit of the doubt—easily product on the car carrier in excess of \$150,000. He said, therefore, taking the lowest possible volume and the highest possible cost involved, you are looking at something in the order of less than 1/10th of 1 percent of the cost of the value that is being transported. He said that is again, not with hard figures but trying to be conservative in the absence of any proof. Secondly, he said, people have said this is discriminatory against car carriers. He said on its face, the law is discriminatory by creating a class of trucks, however, he thinks it is pretty clear under what the courts have determined an equal protection rational is that the Board does not have to take an all or nothing approach. He said they are allowed to make distinctions, allowed to discriminate and from what he understands in listening to the health and safety concerns on this road, the biggest threat but not by far the only threat but the biggest threat was the car carriers. He said this does not mean that this could not be revisited in the future to develop a greater exception. He said for the time being, having consulted with other members of the counsel, he thinks this is a good first step. He noted he will support it.

Councilman Plummer said he would reiterate that he is supportive of the local law. He said he believes it is a start noting that any time you create legislation it is in the spirit of a compromise. He said he thinks that is what has happened here and that is what this is. He said he does not think this issue will be completed at this meeting, however, he thinks that the circumstances being what they are and his understanding of the problem when the issue was first brought here, he thinks this takes care of it in a great way. He said he believes that the carriers do have an alternative route, the Bypass, being perfect for them. He said again the intent was to try to capture the vehicles that were avoiding paying the tolls on one exit to get to another. He does believe that both Elm and Cherry are narrow roads. He said he thinks they are comparable to Kenwood, Feura Bush and Elsmere and that kind of traffic should not be on those kinds of roads either. He said he thinks out of safety this is fair to the taxpayers in the Town of Bethlehem and the right thing to do.

Councilman Davis said the last time this was discussed, she made it clear that her concern was what alternative routes or alternate routes the truck traffic would take if it were banned from this particular stretch of highway. She said she still has that concern, however, she has been persuaded that the auto carriers do have another route to take and that the Bypass would be a viable option for them and probably the only option that they would have. She said she would not and will not support in the future if this particular issue comes back to the Board, supporting all truck traffic because unless there is no way that those trucks would use another part of Town that would impact the residents of other parts of Town. That was her concern and she noted it remains her concern. She said she will support this particular portion of that discussion and support the proposed local law regarding only the car carriers.

Supervisor Fuller thanked Councilman Davis and said part of Councilman Lenhardt's concern were the section 4 exceptions. She asked why he mentioned Albany County. Councilman Lenhardt said the reason he said Albany County was because he felt it was the simplest way to modify the language and still capture those that are going to exit 24 of the Thruway and heading west. He said they certainly would not go to exit 24 from Selkirk if they were heading south. He said they all know that, including the residents of Selkirk. By leaving it Albany County, Mr. Lenhardt said it allows businesses that are trying to do business within the Town of Bethlehem and in the Towns of New Scotland, etc. the opportunity to still use this route to do their business. He said it captures what his original intent was - - to stop the cut through to get to the Thruway. He said he will support this lesser restriction as proposed as opposed to not supporting any restriction.

Supervisor Fuller noted the restriction is to ban the car carriers only. Councilman Lenhardt said he understood that.

Supervisor Fuller said the exceptions to prevent the use of highways for local deliveries and pickups to and from properties located within the Town of Bethlehem. She said she is trying to determine what he is referring to. Councilman Lenhardt said the trucks can continue to use these highways just that it is specific to car carriers the way it is written. The Supervisor asked if the car carriers can pickup and deliver for the residents noting if it happens or if it does in the future. Councilman Lenhardt said he thinks the law the way it is written takes care of that.

Town Attorney Alessi said he took a look at this and he thought he understood what Councilman Lenhardt's intentions are. He said the way he looks at it, there are 2 sections here and he is not sure the law as drafted achieves the objectives of the Board. He said he is concerned that there could be a loophole here that would allow these car carriers to continue to ride on these roads and that is not what anybody is intending with regard to this local law. He said the way the exception clause is written, it says that the exclusions in section 3 shall not be construed to prevent the use of the highways identified in section 3 for local deliveries and pickups to and from properties located within the Town of Bethlehem. That is the literal way that it reads, he noted. He said some courts deal with conjunctions and will interpret them as an or and his concern is that that might happen and therefore, allow these cars to be on Elm and Cherry even though they may just be picking up in Selkirk and going wherever and someone in Town court, a trucker, could say this law provision is not clear enough or I read the conjunction and to mean or and therefore, we do not follow the intent of what everybody wants.

Mr. Alessi said what he proposes to do is to say in plain English, section 3 is banning car carriers, therefore, the exception clause should read simply that the exclusions in section 3 shall not be construed to prevent the and start the modification after the the... delivery and he read it fast and slow, the delivery or pickup of motor vehicles along any highway from which such vehicles are excluded. He said the purpose there is to say if a car carrier has a business of drop of or pickup on Elm or Cherry, that they should be able to use the road. He said that is a much narrower exception than the one presently written. He said he is recommending this wording. He said presently he is not aware of any instance where a car carrier would be picking up or delivering on these roads. So, Mr. Alessi said here is the hypothetical, if some car carrier has to deliver or pickup on any road other than Elm or Cherry, they are banned completely. He said they cannot go through it for any other reason. He said if they have to pickup or deliver on Elm and Cherry, they can be on the road but only for that purpose at that time. He said to him that is a much narrower exception. He said his concern in summation is that the exception is going to swallow up a good part of the ban and you are going to have more trucks on here than you originally intended. Finally, he said, because it is only car carriers, it does not grab-in the Sears delivery truck that would otherwise be coming to deliver an appliance to someone's house which would be a concern if we expanded this law to just car carriers. He said his recommendation is to make this narrower to further the purpose that these trucks can only be on the road for a delivery or pickup on these roads, otherwise they cannot be on them.

Supervisor Fuller asked if the Board wanted to adopt this local law as written this evening.

The motion was made by Mr. Plummer to adopt the local law as written.

Councilman Marcelle asked if there had to be a motion on the amendment first, noting he would move the adoption of the language as offered by Town Attorney Alessi.

Supervisor Fuller said Town Attorney Alessi said this cannot be adopted until SEQR is done. Mr. Alessi said this is an action under the State Environmental Quality Review Act and there has to be a SEQR review done. Otherwise, Mr. Alessi said this law is dead in the water, noting SEQR must be done before the local law is adopted. Councilman Plummer asked if the SEQR determination was not regularly done the same night as the hearing. Mr. Alessi said that was correct but the resolution is not prepared or presented for this evening. Supervisor Fuller noted Albany County Planning Board referred this back for local determination asking if this affected this at all. Mr. Alessi said this was one of the hurdles he mentioned procedurally that had to be overcome. He said absent Albany County determination, the Town Board is without jurisdiction to act. Mr. Alessi said the only thing standing in the way is the SEQR resolution.

Councilman Marcelle asked if the SEQR resolution has to be reviewed with the wording amendment. He said the restriction, as he reads it, must be within the Town of Bethlehem but it could be interpreted otherwise. He said in order to resolve that ambiguity, there has been an offer of an amendment. He further asked if the amendment had to be done before the SEQR review. Mr. Alessi said the answer is that in terms of the law, the law is still in proposal form, therefore, any amendments are not an action under SEQR. He said the amendment can occur in his legal judgment it is not a significant amendment, does not change the substance of the law. He said the amendment can be done before the SEQR review. Councilman Marcelle said he did not want to see the Board get into a situation where they do a SEQR review, then amend the law and then have to perform some subsequent review. Mr. Alessi said SEQR must be done before the Board acts on a proposed law.

The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to approve the amending of the wording under section IV to read “the exclusions in section III shall not be construed to prevent the delivery or pickup of motor vehicles along any highway from which such vehicles are excluded.” The motion was passed by the following vote:

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

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Supervisor Fuller said as of this evening, nothing can be done, it has to be back in December to be on the agenda. Town Attorney Alessi said the Board can legal depart from its practice of having a written SEQR document in front of it but it has to go through the procedures which is identifying the relevant areas of environmental concern, saying why those areas are not going to have a significant environmental effect and then classify the action and then make a determination of significance. He said there is nothing in the law that says you cannot do that without a document in front of you, it is just that this Board has not chosen that procedure in the past. Mrs. Fuller said the Board has never been involved with the SEQR when it comes to the traffic public hearings, so she was surprised that this had to go that way. She said if they are not able to take action, then they have to get the SEQR documents. She asked if it had to go to another public hearing. Town Attorney Alessi said no. Mrs. Fuller said this just becomes another agenda item. She asked if this vote can be taken. Town Attorney Alessi said the answer is that the Board can vote and come back at the next meeting but the chance of someone suing is left open. He said with regard to SEQR, he mentioned it when he did the procedural synopsis.

Supervisor Fuller noted Mr. Alessi did mention it and asked the Board what they wished to do. Councilman Davis said that was a major concern to her and she will not vote until she has the SEQR resolution in front of her. Supervisor Fuller asked Councilmen Lenhardt and Marcelle and Plummer if they agreed with Councilman Davis. They said they did with Councilman Lenhardt noting he did not want to see the law weakened any more than it has been. She said the item on

the agenda for December 11 will be the SEQR and adoption of the law.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve having the SEQR information and determination and the adoption of the proposed local law on the agenda of December 11, 2002. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

Supervisor Fuller noted before starting the next public hearing to address the question regarding DOT and the sidewalks for Selkirk that Mr. Selkirk mentioned. She said they had 2 meetings with the Highway Superintendent, Engineering Services Administrator and herself. She said she thought it was Rob Cherry and Dick Carlson from DOT and Councilman Davis attended as well. She said the question came up about the funding. She said the State of New York is willing to provide \$100,000 for the sidewalks and the Town of Bethlehem has offered to supply \$200,000. She said she planned on this being on the Town Board agenda tonight but in speaking with Tom Warner at DOT, who is the regional director, and Dick Carlson who is in charge of this project, Mr. Carlson notified her that there are other costs that have not been calculated as yet. She said they were not prepared to commit to the sidewalk project at this time. She said once again the budget looks gloom and doom for next year. So, she said for them to say the Town of Bethlehem said no to sidewalks in Selkirk, that is totally inaccurate. She said she wished Mr. Selkirk to let her know who gave the message to him. She would be glad to discuss this further with them. Mr. Selkirk said he hear it in passing.

Hearing began: 8:22 p.m.

SUPERVISOR FULLER: The next item on tonight's agenda is to consider the proposed local law regarding the partial exemption for senior citizens. Ask the Clerk to read the call of the hearing.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING
TOWN OF BETHLEHEM, ALBANY COUNTY

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on November 13, 2002 at 7:45 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider proposed Local Law amending Chapter 111, Taxation, Article 1, Partial Exemption for Aged Persons.

All parties in interest and citizens will have an opportunity to be heard at the said hearing.

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who need assistance in order to participate should contact Nan Lanahan at 439-4131. Advanced notice is requested.

BY ORDER OF THE TOWN BOARD
TOWN OF BETHLEHEM
Kathleen A. Newkirk, CMC, RMC
TOWN CLERK

State of New York)
County of Albany)

BARBARA MATTHEWS of the Town of Bethlehem, being duly sworn, says that she is the RECEPTIONIST for 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 30th day of October 2002.

/s/ Barbara Matthews

Sworn to before me this 4th day of November 2002.

/s/ Sharon A. Doldo

Notary Public, Albany County

- - -

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. 30, 2001, 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
13th day of Nov. 2002.

/s/ Catherine T. Picarazzi

Notary Public

- - -

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt 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. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

- - -

SUPERVISOR FULLER: This is for an amendment for Senior Citizens with Limited Income Tax Exemption Law. It is a local option. Among the 2002 Real Property Tax legislation signed into law by Governor Pataki as a local option amendment to the Real Property Tax for property owned by senior citizens with limited incomes. The amendment permits taxing units to increase the maximum income ceiling for a basic exemption from \$20,500 to \$21,500. The increase also affects the sliding scale option so that localities choosing the maximum sliding scale would be permitted to grant some exemption for senior citizens with an income that is less than \$29,900. Currently it is \$28,900.

May I have a motion to approve. Councilman Davis made a motion to approve, was seconded by Councilman Plummer. All those in favor --- wait a minute. I'm still reeling with SEQR here. Sorry, public hearing. Okay, that's the facts on senior citizens.

Those wishing to speak in favor or in opposition. The total cost to a community, this community... first of all there are 358 such senior exemptions totaling \$12,232,000,890. The maximum effect of the amendment would be in the order of a 5 percent increase in the exemption total or approximately \$611,600.

May I ask you to speak in favor or in opposition? These are our seniors.

MRS. RYMSKI: I don't quite fit the category but after a bad fall this past June, I am having to really second thoughts about a lot of things. I am facing retirement in the next 10 years. What will my income be? What will the taxes be in this Town? Will I be able to afford to stay? We have a wealth of people with all kinds of skills and knowledge and whatever. And, when a community loses their senior citizens because they can no longer afford to stay... they can no longer afford to pay the

taxes, it's real heart rendering for a senior citizen to move out of their home. We faced that with my Mom. She would not leave even though it would have been better for her. And, they want to stay and I think that as a community we should encourage our senior citizens to stay because they contribute so much to the community. But, if they are priced out, they can no longer afford they will go elsewhere. They may even have to leave the area and it is really sad to see them have to break their homes up and leave just because the tax finally gets to the point that they can no longer afford it. They can't afford to keep their home up. They can't afford everything so they are leaving. And, it is a very sad loss for the community.

SUPERVISOR FULLER: Anyone else wishing to speak in favor? Anyone wishing to speak in opposition? May I have a motion to close the public hearing.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to close the public hearing at 8:26 p.m. The motion was passed by the following vote:

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

Town Clerk

Supervisor Fuller asked for a motion to approve the proposed Local Law amending the Code of the Town of Bethlehem, Chapter 111, Taxation, Article I, Section 111.1, Exemption Stated.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve adoption of Local Law No. 7 of 2002, amending the Code of the Town of Bethlehem, Chapter 111, Taxation, Article I, Section 111.1, Exemption Stated. The motion was passed by the following vote:

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

Hearing began: 8:28 p.m.

SUPERVISOR FULLER: The next public hearing is to consider proposed local law regarding Property Owners with Disabilities and Limited Income Tax Exemption. This is pretty much the same line that has been signed in 2002, it's local option, it's a ceiling \$20,500 goes to \$21,500. We can grant some exemption for those disabled property owners with an income that is less than \$29,900. The law's provisions for real property owned by one or more disabled persons or by married couples or siblings, one of whom is disabled and whose income as defined in the law is limited by reason of such disability. What constitutes income is defined within the law is a certification required to prove acceptable disability. The actual exemption is calculated the same basis as for senior citizens. As of this date, there are 10 such disability exemptions totaling \$447,950. The maximum effect of this amendment would be in the order of a 5 percent increase in the exemption total, or approximately \$22,400.

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

Is there anyone wishing to speak in favor or in opposition of this local law?

MR. CROWLEY: Can I ask a question?

SUPERVISOR FULLER: Sure.

MR. CROWLEY: The definition of disability is almost as ambiguous as the Veteran's with Disabilities Act. (inaudible)

SUPERVISOR FULLER: Dave, do you want to answer the question? I am not sure that I can hear you from back there.

MR. CROWLEY: I'll move up.

SUPERVISOR FULLER: And, we need your name for the public hearing record.

MR. CROWLEY: Sure. My name is Peter Crowley and my question is concerning, what I view as the ambiguity of your definition of disabled. Can someone address my concern that that is an ambiguous definition?

SUPERVISOR FULLER: This comes from the State of New York and Dave Leafer is the Assessor.

MR. CROWLEY: I'm not asking where it came from. I'm asking does anyone differ on the ambiguity? Most experts as it relates to the American With Disabilities Act are shaking their heads and scratching their heads wishing it wasn't defined the way it is because they are finding that to be too open ended. My question is, do you feel that this definition is equally as open ended and as ambiguous?

SUPERVISOR FULLER: It's giving the taxpayers a break from their taxes.\

MR. CROWLEY: You are not answering my question.

SUPERVISOR FULLER: Because I don't know how to answer your question.

COUNCILMAN MARCELLE: Do we have a definition? In here you read a definition.

SUPERVISOR FULLER: I did not read a definition. It's the local law that I read the definition of.

COUNCILMAN MARCELLE: In other words, State law... if I understand what's happening... what I heard the Supervisor say is State law defines disabled in a certain manner of which we do not have the definition currently before us. So, I can't tell you and we are not going to tell you whether it is ambiguous or not ambiguous. All this law says, if you meet the criteria of the State law... State definition whatever that may be, then you can apply to the Assessor's office for an exemption. Now, the Federal law, of course, references, you know, life functions and things of that nature. I do not know if the State law is anywhere near the complex as the ADA is. So, I guess we're not in a position to answer that question.

TOWN ATTORNEY ALESSI: You can speak for your status, I mean...

COUNCILMAN MARCELLE: Without ref... without having the State law here.

TOWN ATTORNEY ALESSI: I'm familiar with it and you know, so I just... I didn't want to interrupt you though until you were finished. With regard to the definition, the State definition, there has been no final adjudication of that definition by the highest court. The law is very clear that law that are validly passed are presumed valid. This Board is bound until there's a determination by a

court having jurisdiction to follow that definition and therefore, in the absence of any court decision, this Board is not authorized to address your question. We are not authorized to give our opinion on a law to the contrary, what we are supposed to do as a body politic, is accept the definition as presumed valid. So, my legal recommendation to the Board is that the law and the definition are valid because by law it is presumed valid and in the absence of a court striking it down as ambiguous that is the position this Board must follow. Now, if Mr. Leafer, wants to speak to working knowledge with regard to the law because he more than anybody is the one who has to deal with it on a functional basis, you know, that might be another matter. But, in terms of the legal issue, I don't have a problem with it at all.

MR. CROWLEY: Well, then, my follow-up question to that is though, should you really be voting on something that's going to potentially have economic impact without truly understanding or collectively a working knowledge of what the definition is going to be. To basically refer to a law that the Board itself does not seem comfortable or specific on, how can you then vote and pass something or potentially vote down something that you, yourselves, are not that familiar with. I find that to be really inconsistent in everyone's best interest. And, the reason I say that is if you look around how many disabled parking plaquered there are out there. There are clearly many more plaquered of people claiming to be disabled than statistically the Federal Government believes are disabled. Unfortunately, when there seems to be an upside, all of a sudden to be disabled, more people wanted to claim to have a disability. It seems morally repugnant but that is the case. And, that is the genesis of why I asked this question. And, I would recommend until you have a better handle on what the true working definition is going to be by the State and an understanding of this Board of what it is going to be, you table the matter because it is going to have potential economic impact... not this year but down the road.

TOWN ATTORNEY ALESSI: I think you raise a very legitimate issue with regard to the abuse of any State program that has a definitional aspect in terms of qualifications, not qualifying. We have that issue with a number of laws that people seek to qualify for funding. I think Mr. Leafer can speak to how he is going to approach this. There are many people at the State level who give guidance on this issue. It comes up in other context. But, I appreciate your comment about admonishing the Town to make sure it's not abused because when there is a definition that lends itself to different interpretations, it can be to the Town's economic disadvantage if there's not a proper interpretation and that point is well taken. But, I think your assumption that the Town doesn't know how to interpret it and therefore there will be economic abuses, I don't think we are there yet. But, Mr. Leafer can speak to that.

MR. CROWLEY: But, the reality is... to give you an example of the plaquered for handicap parking. The reality is if the doctor provides a documentation or certification, the Town and the State's hands are tied. The New York State Advocate Office for the Disabled is so frustrated with those abuses that they have actually tired to sponsor legislation to have all plaquered and plates recalled and start all over again. That's how widespread they feel the abuses are. The fact of the matter is, if someone comes in with documentation from their physician claiming to be disabled, it puts you, the Town and meaning all of us, in a defensive mode if we were trying to challenge it. And, I just don't think that's to everybody's best interest. And, clearly, I am not against the disabled, I happen to be permanently disabled but I am also gainfully employed. And, I do know, and which I am speaking from, I'm the former Chair of the Albany County Human Rights Commission. I'm former Chair of the Albany County Council on the Disabled. I was also the 504 Coordinator for Albany County. I also helped on the ADA Committee for the Town of Bethlehem. So, I'm not speaking as someone without some expertise and background. What I want to explain to you is with senior citizens it's specific. There's an age. There's an income level. And, I have no problem with that. We want to keep people when we can. But, I don't want people to be abusing something and I think there is a potential for it. And, again, just look around at the mall parking lot and see how many people all of a sudden

are disabled who never were before. And, I think, you're making with good intentions, and I really mean that... I think... I think Town Supervisor Sheila Fuller is wonderful. I think the Board is very well intentioned. Please don't confuse my questions with... that... I'm not callous. I'm concerned that your good intentions are missing sight of what could happen down the road. It's kind of like opening a Pandora's box and I've seen it both in an employment level when I worked in Human Resources and I've seen it both at professional level from the Human Rights Commission. I just warn... really trying to help warn you as to what's potential down the road and I think tabling it, getting more information and more knowledge of what's going on and how you have to respond to claims of disability would put you in a better position and feeling comfortable to forward.

SUPERVISOR FULLER: This came forward to us from the State of New York and from Albany County. They have already acted on it and they have asked that we act on it.

MR. CROWLEY: And, I understand...

SUPERVISOR FULLER: And, our Assessor can... can you tell about the proof they have to have.

MR. CROWLEY: In all do respect, it wouldn't be the first time the County nor the State or the Federal Government acted on something and had it bite them economically. Let's...

SUPERVISOR FULLER: And, this is not the first time that we've had this before us.

MR. CROWLEY: Yes.

SUPERVISOR FULLER: We've voted on this last year as well. This is either the second or third year... I don't remember if it's 2... I know that we had it here last year, I wasn't sure if it wasn't the year before that.

MR. CROWLEY: My point is, well meaning legislation has come back to bite many a people who pass it and I'm not going to get into specifics with the ADA but the ADA has a long track record now of abuses, court challenges and it's really a litigious nightmare. So, I just think you need to be aware of all that and you'll probably pass it tonight but just realize that you've got to look beyond just tonight.

Thank you. Do you want to answer any questions?

MR. LEAFER: No, I'll just make a quick comment. As with any legislation that is ever passed, it has to over a period of time, generally face questions that arise as to well does it mean this... does it mean that. I can't speak to the definition per se but I can speak to the State's requirements of us to have in hand a certification of the person's disability which generally will come either through Social Security or often times veteran's disability. I don't feel that we've ever had anybody walk in that has been attempting to abuse the system. In addition to the disability, they do have to meet certain income requirements as well. This law was specifically passed to attempt to provide some tax relief for those folks who did have a certified disability, whatever the definition might be and the State gave us some guidelines. Now, if we run into a difficulty in terms of determining that that individual actually meets the guidelines for a certified disability, generally what we'll do besides perhaps talking to the Town Attorney but generally what we will do is go to the Office of Counsel of Real Property Services who will then interpret opinions of Counsel that have taken place as the various questions arise about this exemption or any exemption for that matter. We've had a number of them on the senior exemption over time that have required the Legislature to step in and refine or amend the law. The same has been true of our short lived Star exemption. We've had many questions as to what ownership actually is. And, finally there were some options within some of the other laws on ownership that said if somebody had a life

use or life use was reserved for them, they qualified for the exemption. That needed interpretation and eventually through opinions of Counsel and tried in the courts, we've ironed out many of those things. I don't feel in this particular exemption the way it is structured that we have any abuses or are likely to have any abuses and if we come up with a question as to whether somebody truly qualifies on the basis of the certification of their exemption, I would be turning to the legal sources to help me in that action.

SUPERVISOR FULLER: Along that line with the disabled exemption there is not the age requirement but if they are over 65, they cannot have both the senior and the disability exemption. They can only have the one exemption.

MR. LEAFER: That is correct. The 2 laws parallel each other in terms of some of the criteria and the income limits – the scale, the sliding scale we use – which would give them an exemption from 5 percent to 50 percent. But, again, if someone is over 65 and is disabled... certified disabled, they can only have one of those two exemptions. They can't have them both. And, someone who is... who qualifies for the previous exemption that we talked about, the senior exemption, because they meet the income limits of the enhanced Star automatically get that. So, they are only reapplying each year for the senior exemption and qualifying for that automatically gets them the enhanced Star. They don't have to apply for both. This instance, a person under 65, would receive this exemption if he qualified or she qualified otherwise, but would be getting the basic Star if they were under 65.

So, the Star program sometimes gets confused with both the... the senior... the regular senior exemption. They are related but they are not related at the same time.

COUNCILMAN PLUMMER: Do you know, Dave, approximately how many disabled exemptions there are in this Town?

MR. LEAFER: We have at the present time on the books approximately 10.

COUNCILMAN PLUMMER: Okay, now how long has the program been available to this Town? I recall voting...

MR. LEAFER: That program has been in effect, I believe it was first passed... it's got to be about half a dozen years ago.

COUNCILMAN PLUMMER: Okay, David, do you know has it been...

MR. LEAFER: And, there has been one increase in the limits that paralleled the senior increases and that... the Board passed on that back in 1999... end of '99 for the 2000 year.

COUNCILMAN PLUMMER: Okay, thanks.

MRS. RYMSKI: Try and clear up some confusion on the definition of disability according to Social Security Act. It will... your disability will result in death or result in you are being unable to work for 12 consecutive months. I work with the program every day, day in and day out. For those who are truly disabled, who meet a Social Security definition of disabled, I think the program would be excellent. I would caution you though that I hope there is some built in recertification because some people do not remain permanently disabled and they should not have the perspective that this will be a permanent exemption for them. Yes, I will admit that Social Security is behind in its reviews and its continuing disability reviews... I am part of that process. We do get swamped, we do get behind. We can only do what the Feds send us to the State to do. So, people may be on it for maybe longer than they should be but it is normally not a life long situation and if you... normally if you can get Social Security's definition of disability, you are either going to die sometime in the near future or you have something so bad you cannot work for a minimum of 12 months. There's the definition of disability.

SUPERVISOR FULLER: Is there anyone else who would like to speak in favor or in opposition? May I have a motion to close the public hearing?

The motion was made by Mr. Marcelle and seconded by Mrs. Davis to close the public hearing at 8:44 p.m. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

Town Clerk

Supervisor Fuller asked if the Board wished to approve the local law pertaining to Property Owners with Disabilities and Limited Income Tax Exemption.

Councilman Marcelle asked Town Attorney Alessi if the Board passed this local law and there is a report from the Assessor that this is being subject to abuse or some court has interpreted the definition of disabled beyond what the Board would like to extend this too, if they could repeal this in the next fiscal year. Town Attorney Alessi said the Board does have the authority to repeal this. Councilman Marcelle said that if they found out it was being abused, they could review it and this is not being edged in stone for someone for life. Town Attorney Alessi said that was correct. Supervisor Fuller noted this has to come before the Board each year.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve the adoption of Local Law no. 8 of 2002 amending the Code of the Town of Bethlehem, Chapter 111, Taxation, Article V, Section 111-16, Property Owners with Disabilities and Limited Income Tax Exemption Law. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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Supervisor Fuller thanked Mr. Crowley and said they will keep track of this.

The next item was a request from Building Inspector, Kevin Shea, for approval of addition to 12 Eton Drive, Slingerlands, Eastmont. Mr. Shea explained that this is a part of a Planned Residence District. He said the addition would be within the building envelope which is required in the Building Project Approval. He said the existing unit is approximately 1460 square feet. It would increase to about 1620 square feet with the proposed addition. He said that would be approximately 10 percent. He also noted permission must be granted by the Town Board prior to issuance of a building permit. He asked if there were any questions.

Supervisor Fuller noted the letter was pretty specific in regard to the need for the addition. Councilman Davis asked if this was just an extension of the patio. Mr. Shea said it is and noted any change in a Planned Residence District has to come back to the Town Board. He said this is a significant change because the square footage is increased. Mrs. Davis also noted it is on a corner and no other building will be affected by this addition. Mr. Shea said there is another house on the corner but he thinks it is facing the other way.

Councilman Marcelle asked if the Building Department had a recommendation with respect to this request. Mr. Shea said they agree with this

request and noted this is what happens with the expansion of families. Mr. Marcelle noted this is something to keep the family together, comfortable and livable in the Town. Mr. Shea said they are also going for garages to protect their vehicles now because they are expensive.

The motion was made by Mrs. Marcelle and seconded by Mrs. Davis to approve the request by the Building Inspector for approval of addition at 12 Eton Drive, Slingerlands, Town of Bethlehem. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The following item was a discussion regarding zoning/rezoning issues attendant to "Route 144 area" and town-wide agricultural overlay district. A lengthy discussion was held between residents and the Town Board relating to zoning issues in the Selkirk area. Councilman Davis noted she was contacted by a group of residents and met with the group. She said in the discussion she said she would support rezoning the portions of 144 in the most southern part of Town. She said the area is currently in the rural not zoned district. She said she has made it clear that she would support zoning for the rural not zoned areas of the Town. She said she thinks it is an important protection for the residents.

Mrs. Davis said she suggested that this move forward and indicated that she would prefer that the Town not impose particular zones on the residents but have them determine what they felt was livable and reasonable. She said normally requests are received from residents asking for rezoning of particular portions of the community. She said this would be the normal procedure for the residents requesting this change. She said because this area is also a part of the Town that the Rural Landowners incorporated into the Agricultural Overlay District that was previously presented, she indicated she thought it important that representatives of that group be involved in any decisions made.

Supervisor Fuller said Councilman Davis asked to have this on the agenda. She said she suggested that a Task Force of Landowners and Residents including representatives from the large landowners who were involved back when zoning was not preferred in the southern end of Town because they have come up with a plan for the agriculture overlay district to work with the residents that Councilman Davis has asked to be sent to work together. She said she did not know if Mr. Mead was the representative. She noted she called Sheila Powers to advise that this was coming up. She said a Task Force could be appointed and encouraged Councilman Davis to stay with the group if possible and be the Board's liaison. Councilman Davis said she would be willing to stay with the group and move it forward. She noted she thought it was important to move it forward and hoped that the residents in attendance continue to feel it is important.

Supervisor Fuller said this is not going to have anything to do with the Waste Management site on River Road. She said to be on the record, it is not about that location. Councilman Davis said it was in the vicinity but that portion could not be included.

Supervisor Fuller asked Mr. Ed Kleinke if he were representing the group. Mr. Kleinke said it was Mr. John Mead and himself.

Town Attorney Alessi said he wanted to add an item. He said there are 2 sort of zonings and rezonings at play here. He said one is just an ad hoc label which is the Route 144 area which will need to be defined on a map, however, it would not include the Waste Management parcel. Mr. Alessi said as he understood it, not the whole rural not zoned area. He said it is a sub part and it is really Route 144 corridor area.

Mr. Alessi said as he also understands it, part 2, is for the agricultural overlay district that was being proposed to be looked at the same time to effectuate that concept as well because there are certainly issue that the Town has that could be resolved with the New York State Department of Agriculture and Markets which has been saying to the Town for some time this is part of the need for this component that our zoning law is not consonant with the State law which is to facilitate agricultural uses and this would be a good opportunity to cure those deficiencies with regard to the agricultural overlay district. He said as he understands it, the proposal is to have these groups in the same area work together to come back to the Board on both of these types of concepts.

Councilman Davis said one of the fundamental factors here is that they need to involve the individual groups that are affected without excluding.

Comment was made that the issues of the protection of agriculture is what the Rural Landowners are concerned with and it is already protected by the State Department of Agriculture and Markets. Mrs. Mead said they are looking for compliance by the Town to cover the agricultural zoning. She said they are not looking to change the zoning or add to the zoning or redo the zoning. She noted that is why there is a proposal for the overlay district. She said in that way, there is no need to change the zoning. Councilman Davis said the zoning will be changed because it is currently rural not zoned. Mrs. Mead said she is not addressing that issue, noting only the fact of agricultural district number 3 come in compliance with the State. She said she is not sure what the issues are with the Route 144 zoning, noting these are 2 separate issues. She said they are a business doing business with a set of laws that are compiled by what the State of New York says is the law for agriculture.

Town Attorney Alessi said the Town would have to change the zoning to effectuate an agricultural overlay district. He said that is clear. He said no one is seriously disputing the substance of the Town of Bethlehem laws not being the same as New York State laws and there is a need to move them in that direction. He said the proposed agricultural overlay district can be one mechanism to effectuate that change. He said the reason Mrs. Davis and the Supervisor have been talking about the 2 working together is because as the maps are looked at, the overlay districts are in these areas, as well as, other areas of Town. He said if zoning, it can only be one map in the end and it needs to be consistent and this why the suggestion was made. Mrs. Mead noted New York State has already determined where the properties and farms are. She said it was not something they decided, it is already decided by the landowners themselves and are reviewed every 8 years.

Mr. Kleinke said Mrs. Powers asked him to extend her regrets for not being able to be at the meeting. He said he thinks Mr. Alessi in his opening comments regarding these issues really qualified, he thought, what was being talked about. He said there are 2 distinct things that are begin sought after and certainly the Rural Landowners are willing and happy to involve others in the process of achieving both of these things. He said he thinks the Rural Landowners are concerned that their plan, the effort that they have made, the goals that they have which he thinks are a little different than perhaps the goals of the Route 144 corridor zoning question. He said those plans and goals not get sidetracked or delayed or put to one side over some of the other issues that are occurring. He said giving the fact that an overlay can exist with the underlying zoning that is presently there or is there in the future, that this can be moved forward with the overlay concept while some of the other issues are being addressed. He said he thinks in response to Doris's suggestion, certainly the Rural Landowners are willing to and think they should be including all those who have an interest in land use in the rural part of our community and certainly be willing to do that.

Supervisor Fuller said what they are looking for is to have manageable numbers to be able to move forward. She said as they both know, this was gone

through many, many years ago and at that time, the zoning that was suggested from the Town the landowners were not in agreement with. She said they all have to agree with that because if they remember, she was the one who set up the Task Force with George Lenhardt as the Chairman to sit down and try and resolve the differences. She said now many years later, they are hearing that it was wanted but now the zoning brought in is the overlay. She said she would like to combine that with the residents concerned with the 144 corridor so that everyone is discussing what the issue is here. She said there is a need to protect the land and prevent another Waste Management which has created the concern along 144. Mr. Kleinke said they understand that and he thinks the rural not zoning district was established long before he was involved in any of the Town activities. He said the Rural Landowners began to express their concerns based over concepts that were presented in the LUMAC plan, as master plan and land use concepts as opposed to specific zoning concepts. He said from that, they derived their goals and objectives and looked at the Town in a number of ways and presented those concepts to the Board and subsequently, talked in September about establishing an overlay district to get to the zoning point of all the discussions over the past bunch of years. He said that is what the Rural Landowners are interested in pursuing and he agreed that everyone certainly needs to be on the same page.

Supervisor Fuller said she thought it was much easier if the suggestions come from the people rather than the government. She said if suggestions can be made, the Board is more than willing to be able to start somewhere. She said they are asking them to work together. Mr. Kleinke asked if the suggestion or thought is that the Town Board or specific members of the Town Board facilitate getting this off the ground and together and organized. Supervisor Fuller said she asked Councilman Davis because she had met with the group who originally spoke with her about this and then she called to get the landowners on board as well. She said she spoke with Sheila Powers. Supervisor Fuller noted Councilman Davis will be working with the group.

Councilman Davis asked Mr. Kleinke if that was satisfactory. Mr. Kleinke said they need an organization that moves forward and if it is going to be put together by the Board or the Supervisor. The Supervisor said it will be put together by the Rural Landowners and the residents, with the names submitted to the Town. Mrs. Davis said the group she met with has already, she believed, selected representatives and she thought it was 3. Supervisor Fuller said she asked that the Landowners submit 3 also.

Mr. Mead questioned if they were saying that what they were proposing had to fit with the plan they were proposing. Town Attorney Alessi said to back up a little bit, they have been in communication with Agriculture and Markets and they have agreed with the Town that the interpretations they are giving to the zoning code with regard to agricultural uses are satisfactory and that the Town does not have to change the zoning code to comply with State law. He said it is cumbersome to do it that way because it is a bit misleading to the public. He said they pick up the code and see residential use in an area and yet they see an agricultural use doing things that really are not permitted under the Town code. He said the residents get confused and he said it is a case-by-case interpretation. He said they do not feel that is the best way to approach it. He said with regard to other types of activity for agricultural uses, so the Town is technically in compliance with the Agricultural Law because of the way we interpret the laws. Mr. Alessi said he would not want to hear that the existing code is in conflict with State law because the way it is interpreted it is not. He said if there is an agricultural overlay district, people will be able to go look in the code and be able to see for themselves without an interpretation exactly what is allowed and not allowed. Mr. Mead said the residents could then get whatever kind of zoning they want in that particular area even though somebody else down the road might want the agricultural overlay later. Mr. Alessi said yes because the agricultural overlay will be allowed over the existing zoning.

Mr. Mead said the plan for agriculture prepared by the Rural Landowners needs to be heard on its own merit, separate from special interest zoning channeling through the proper public hearing procedures. He said the agricultural overlay remedies the problems encountered by the Town being in violation of the New York State Agriculture District law and it does not seek to change the zoning and is not asking for any zoning changes. He said they have not changed anything from what they said in the beginning. He said this has been their opinion from the beginning. He said they brought this program forward a couple times and they would like to see it go on its merit and see what it will do.

Supervisor Fuller said it may have been the last meeting when they spoke about being willing to work with the people that sat on the other side of the room speaking about not wanting zoning and now they do. She said it is time for everyone to get together and decide once and for all what is wanted. She said this is now coming from a different group asking for representation. They would like to have some zoning in the southern end of Town. She immediately asked for the Rural Landowners to get involved so that this can all come about with some consensus. Mr. Mead said he is not against the zoning but he would like to see the plan that has been worked on for quite a while, go forward on its own merit and see how it is going to work. Supervisor Fuller said she thinks it is time to address it with the 144 request.

A resident of the 144 area said they are not looking to impose any problems and want agriculture to coexist. Comment was made that there are existing farms in the area. The resident said a number of the members work in agriculture. There was a discussion in the audience regarding the working farms and the Rural Landowners.

Supervisor Fuller said this was a good jumping off point to suggest that the names be submitted and they can have the discussion in a meeting. Councilman Lenhardt offered all the notes and the literature and everything that the previous Task Force did for Councilman Davis's use. Councilman Davis thanked Councilman Lenhardt. Supervisor Fuller thanked Councilman Lenhardt.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve setting up a Task Force of Landowners and Residents for the 144 Area. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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Councilman Marcelle asked if there is a way to contact all landowners on the concerned area so they are aware of this group and if they want to participate and send out a notice regarding the Task Force. Supervisor Fuller said the Task Force should be able to take care of that. She said the membership is in place for the 144 area and very well in place with the Rural Landowners. Mr. Marcelle said he just wanted to make sure the people are notified. He said he would not want to go through this and find a significant number of people who were not aware of this. Supervisor Fuller said it will be a recommendation from the Task Force to the Town Board and then it will be accepted, rejected or hold a public hearing on the recommendations. Councilman Davis said the meetings will not be made up of the entire community of the area. There will be specific members of the Task Force, Mrs. Davis said, but the community in that area is pretty well aware of what is happening. She said they have notified the members of the group and the residents.

The next item was a request from Comptroller, Judith Kehoe, for authorization of the Supervisor to sign agreement for improvements at intersection of Route 443 and Route 140 (Four Corners), approve transfer from General Fund Capital Reserve to the DOT Four Corners Betterment Capital Reserve Fund and

adoption of resolution to approve expenditure of \$150,000 from the DOT Four Corners Betterment Capital Reserve Fund. The Supervisor said this is the State of New York coming out Delaware Avenue from the railroad overpass out beyond the high school. She said they will be redoing Delaware Avenue and they have asked the Town to participate in this betterment agreement which the State of New York is doing the work and it will be a 50/50 split, as far as, the financial implication. She said the resolution is to transfer the money from the General Fund Capital Reserve to the DOT Four Corners Betterment Capital Reserve Fund. She said the next item would be to expend the \$150,000 from the Fund where a permissive referendum is required and authorization of the Supervisor to sign the agreement and approval of the standard DOT resolution. She said the resolutions are in the packets for the Town Board. She asked if there were any questions, comments and noted it was an advantage to the Town to join in this project so that they would do the work and improve the Four Corners which the Town would not have been able to do. She said this is something the Chamber of Commerce and many residents have come forward asking about improving the Four Corners. She said this is the first step and it is nice to have the opportunity to do it with the State of New York.

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The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve authorizing the Supervisor to sign the Agreement for improvements at the intersection of Route 443 (Delaware Avenue) and Route 140 (Kenwood Avenue) – the Four Corners area. The motion was passed by the following vote:

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

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The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve the transfer of \$150,000 from the General Fund Capital Reserve to the DOT Four Corners Betterment Capital Reserve Fund. The motion was passed by the following vote:

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

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The following resolution was presented for adoption:

RESOLUTION AND PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem in the County of Albany, State of New York has on the 13th day of November 2002, duly adopted, subject to a permissive referendum, a resolution as follows:

WHEREAS, the Town Board of the Town of Bethlehem has determined that it is necessary to fund the DOT Four Corners Betterment Project, and

WHEREAS, it is estimated that the costs of said work will not exceed \$150,000; and

WHEREAS, in recognition of these needs, funds for such purpose are in the DOT Four Corners Betterment Capital Reserve Fund; and,

NOW, THEREFORE, BE IT RESOLVED that it is in the public interest to complete these infrastructure improvements; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the expenditure of the reserve moneys to fund this project up to a maximum amount of \$150,000 and,

BE IT FURTHER RESOLVED, that the Town Comptroller is authorized to expend from the DOT Four Corners Betterment Capital Reserve Fund the funds necessary up to \$150,000 in said reserve fund; and

This resolution shall be subject to a permissive referendum, as permitted by law.

The motion to adopt the resolution was made by Mr. Plummer, was seconded by Mrs. Davis and duly adopted by the following vote:

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

NOES: None.

ABSENT: None.

The next item was a request from Highway Superintendent, Gregg Sagendorph, for approval of the Supervisor signing the Maintenance Resolutions pertaining to sidewalks and street lighting system for proposed infrastructure improvement project at Route 443 and Route 140 (Four Corners).

The following Resolution was presented for adoption:

RESOLUTION TO MAINTAIN SIDEWALKS

Resolution

WHEREAS, the New York State Department of Transportation proposes a Safetrak Project on Route 443, S.H. 41 and S.H. 92, in the Town of Bethlehem, Albany County, and

WHEREAS, the State will include as part of the construction of the above mentioned project, the construction of sidewalks pursuant to Section 140 of the Highway Law, as shown on the contract plans relating to the project.

NOW, THEREFORE

BE IT RESOLVED: That the Town of Bethlehem approves of the construction of such new sidewalks and reconstruction of existing sidewalks and the above mentioned work performed on the project and shown on the contract plans relating to the project and that the Town of Bethlehem will maintain or cause to be maintained the sidewalks, performed as above stated and as shown on the contract plans, including the control of snow and ice.

BE IT FURTHER RESOLVED: that the Clerk of the Board is hereby directed to transmit four (4) certified copies of the foregoing resolution to the State Department of Transportation.

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

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

Noes: None.

Absent: None.

RESOLUTION TO MAINTAIN HIGHWAY LIGHTING

Resolution

Resolution of the Town Board of the MUNICIPALITY of the Town of Bethlehem, agreeing to maintain, repair and energize a highway lighting system on or along State Highways within the geographical jurisdiction of the MUNICIPALITY, such highways identified as Delaware Turnpike, Part 2, State Highway 41, and Delaware-Slingerlands, State Highway 92 (PIN 1806.20), County of Albany.

WHEREAS, the MUNICIPALITY of the Town of Bethlehem approves of such project and desires to have a highway lighting system on such highway within its geographical jurisdiction, and

WHEREAS, the State of New York has agreed to provide as a part of the project the following items in connection with a street lighting system:

1. Underground duct system, including conduits, pull boxes, hand holes and drainage pockets.
2. Ducts, pull boxes and anchor bolts on structures.
3. Foundations for light standards and bollards.
4. Light standards and bollards.
5. Luminaires, wiring, switches and ballasts, and all other components necessary to complete the lighting system.

Provided that the MUNICIPALITY of the Town of Bethlehem agrees to maintain, repair and energize such highway lighting system for a period of 10 years or until such time as the COMMISSIONER, in his discretion, determines that such lighting and/or the maintenance of such lighting system is not longer necessary for such Highway.

NOW, THEREFORE, the Town Board, duly convened, does hereby RESOLVE, the MUNICIPALITY of the Town of Bethlehem approves of the above-subject project; and it is hereby further

RESOLVED, that the MUNICIPALITY of the Town of Bethlehem shall maintain, repair and energize such highway lighting system, and it is hereby further

RESOLVED, that the Clerk of the Town Board is hereby directed to transmit five (5) certified copies of the foregoing resolution to the State Department of Transportation.

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

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

Noes: None.

Absent: None.

The next item was a request from Gregg Sagendorph, Highway Superintendent, for approval to go to bid for biodegradable paper bags. Could advertise on November 20, 2002 and open bids on December 3, 2002 at 3:00 p.m.

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

WHEREAS, the Town desires to advertise for bids for the purchase of biodegradable paper bags, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 20th day of November, 2002 and that bids be received up to 3:00 p.m. on the 3rd day of December, 2002 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

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

Noes: None.

Absent: None.

The next item was a request from Comptroller, Judith Kehoe, for approval of proposed modifications to Human Resource Policies. Supervisor Fuller said these were part of the budget discussion. She said 2 enhancements were proposed to Human Resource Policies, one is to pay an annual salary enhancement for employees who possess higher education beyond that which is required in their job description and to increase the annual tuition reimbursement benefit. The Supervisor explained that the amounts are \$500 and \$1,000. She said the key element of the proposals are all department heads and deputies are ineligible, all elected officials ineligible and eligible employees must be full time non-seasonal appointments, employees must demonstrate their ability by submitting either a copy of their diploma or a formal transcript from the accredited institution they graduated from. She said training from non-accredited institutions is not eligible.

Degrees received mid-year will qualify for payment on a prorated calendar basis, she said. Advanced degrees beyond a Bachelor's Degree are not recognized as qualifying level.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve a modification to the Human Resource Policies to include \$500 for an Associate Degree and \$1,000 for a Bachelors Degree for employees having such degrees above what their job description requires. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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Supervisor Fuller explained this had been discussed at the budget work sessions and at the public hearing on the budget, 2 weeks ago.

Resident, Mrs. Capone said she does not think it is fair the head of the department who have no degree that a person comes in with a degree. She said she always thinks of the whole first floor. She said a clerk with a master's degree was hired from Guilderland. She said if she came here with that degree it was because the Town was paying more than Guilderland was. She said in the Spotlight, Councilman Davis spoke in favor of a raise in bonuses. She said we had a number of retirees in the last year or two she said and it is very difficult to fill the position because we are not competitive with other communities even private industries. Mrs. Capone said when John Flanigan retired it took a month for Kevin Shea to get the job, he had been doing the job for 10 years, what was wrong with moving him up. She said when Dave Austin retired, you could not wait to fill the job with the next one in line. She said at the next meeting it was over with. She said she does not think it is fair. She said she thinks what is going on in here smells. She said there is something that smells like the Board is looking for a person to put in a position and that's the way the Board is reaching them. Supervisor Fuller said she did not think so. She said if she remembered at the budget hearing when this was discussed and the issues were raised, it was discussed that the Town needs to be competitive with salaries with other communities. She said they were able to promote from within. She said when there were vacancies and they were not able to fill them, they took a look at the salaries and we were falling behind. She said what better value for the tax payers dollar than to have educated employees.

Mrs. Capone said the Guilderland girl will not be talked about. She said let's talk about the money and the senior citizen. She said look at all the taxes the people are going to get. She said taxes are being put upon taxes.

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Supervisor Fuller noted she wanted a separate vote on the proposal to increase the Annual Tuition Benefit from its current level of \$1,000 per year up to \$2,000. She said employees must attend an accredited institution and achieve a grade of C or higher and provide proof of payment of tuition. She said the Town will then reimburse 50 percent of the eligible cost up to the annual maximum.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve an increase in the Annual Tuition Benefit from \$1,000 to \$2,000. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The next item was to adopt the Resolution adopting the Preliminary 2003 Budget for the Town of Bethlehem.

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, 2003, 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, seconded by Mrs. Davis and duly adopted by the following vote:

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

The next item was a request from Michael Cirillo, Engineering Services Administrator, for approval of release of bonding for Westland Park Section 5, The Concourse.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve the release of bonding in the form of an escrow account with the balance plus interest being returned to Mr. and Mrs. Marek Gurin, Albany, New York as requested by Engineering Services Administrator, Michael Cirillo. The motion was passed by the following vote:

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

The following item was a request from Engineering Services Administrator, Michael Cirillo, for acceptance of deeds for Dowerskill Village, PRD 4, Section 3, Phase 2E.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to approve the acceptance of deeds for Dowerskill Village, PRD 4, Section 3, Phase 2E from Charlew Construction Co., Inc., Schenectady, NY with bonding as requested by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

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

The next item was a request from Michael Cirillo, Engineering Services Administrator, for acceptance of deeds for Collier Subdivision, Adams Street and Palmer Avenue, Delmar.

The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to approve the acceptance of deeds for Collier Subdivision, Adams Street and Palmer Avenue, Delmar, NY from Mr. and Mrs. Brian T. Collier, Delmar, NY with bonding submitted as requested by Engineering Services Administrator, Michael Cirillo. The motion was passed by the following vote:

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

The following item was a request from Michael Cirillo, Engineering Services Administrator, for approval of release of bond for Westland Park, Section 3, The Concourse.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve the release of bonding in the form of an Escrow Account plus interest for Westland Park, Section 3, The Concourse as requested by Mr. and Mrs. Thomas Fresina, Slingerlands, New York and requested by Engineering Services Administrator, Michael Cirillo. The motion was passed by the following vote:

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

The next item was a request from Engineering Services Administrator, Michael Cirillo, for acceptance of deeds for Halter Road and Retreat House Road for highway road improvements.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve the acceptance of deeds from Mr. and Mrs. John Bohl, Glenmont, NY for Halter Road and ABC Operating Corporation, Glenmont, NY for Retreat House Road, Glenmont for highway improvements. The motion was passed by the following vote:

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

The next item was a request from Michael Cirillo, Engineering Services Administrator, for acceptance of deed for Barber Subdivision, Werner Avenue.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the acceptance of a deed from Mr. and Mrs. Steven Barber, Delmar, NY for a right-of-way along the northerly side of Werner Avenue, Delmar as requested by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

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

The following item was a request from Engineering Services Administrator, Michael Cirillo, for approval of change in assignment of house numbers, Fisher Boulevard, Slingerlands.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve the change in assignment of house numbers as requested by Michael Cirillo, Engineering Services Administrator, for Fisher Boulevard, Slingerlands as follows:

<u>CURRENT HOUSE NO.</u>	<u>NEW NUMBER</u>
Existing house number 144	No. 238
Vacant Lot – House No. 156	No. 254

Existing Apartment Building No. 304	No. 305
Existing Town Sewer Pump Station No. 306	No. 307
Existing Apartment Building No. 312	No. 311.

The motion was passed by the following vote:

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

The next item was a request from Bruce Secor, Commissioner of Public Works, for approval of draft contract regarding Sewer Use Agreement with the Town of New Scotland – Heldervale Sewer District – and authorization of Supervisor to sign agreement.

Councilman Plummer asked if the fees that are being charged for this service to Town of New Scotland cover the Town of Bethlehem’s cost. Mr. Secor said it does, noting they are paying a surcharge on top of our regular O and M costs.

The motion was made by Mr. Plummer to approve the draft contract and authorize the Supervisor to sign the Sewer Use Agreement with the Town of New Scotland – Heldervale Sewer District as requested by Bruce Secor, Commissioner of Public Works. The motion was seconded by Mrs. Davis and passed by the following vote:

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

Councilman Plummer noted there are blanks in the draft contract and noted it was on coverage amounts, asking Mr. Secor to address this. Mr. Secor said this is a draft and the wording is awkward. He said it has not been submitted to New Scotland and this is a chicken and an egg thing. He said he hoped he did not have to come back to the Board but he needs to work out details with New Scotland. He said whatever way Town Attorney Alessi thinks is the best way to do that is okay.

Town Attorney Alessi said he wanted to understand and that was his understanding but he recommended that the Board do is have the motion authorize the Supervisor to complete the dollar amounts or the option is to come back to the Board. He said he realizes this is the typical inter-municipal chicken and egg and he also asked that there be evidence of a duly passed resolution from the Town of New Scotland on file because that is necessary to have the contract be valid. He said with regard to the blanks in terms of insurance, there has to be some follow-up to have it effectuated.

Supervisor Fuller asked if the motion should be revised. Town Attorney Alessi said he would recommend that the motion be withdrawn and that a new motion be restated. He said then before that is done, there should be a discussion regarding authorizing the Supervisor to accept the insurance policy with fairly routine coverage amounts or whether it should come back before the Board for review. The Supervisor said it can come back before the Board. Mr. Secor said it did not matter to him. He said he did not want to present something to New Scotland that the Board had not looked at. Town Attorney thus recommended that the Board pass a motion accepting the contract concept in draft form and that it be brought back to the Board for final action upon the duly passed resolution of the Town of New Scotland together with the dollar amounts filled in.

Councilman Plummer motioned to withdrew the motion approving the draft contract and authorizing the Supervisor to sign the Sewer Use Agreement with the Town of New Scotland – Heldervale Sewer District. Councilman Davis withdrew her second and the motion was passed by the following vote:

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

Noes: None.

Absent: None.

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Councilman Plummer made a motion to accept the proposed Sewer Use Agreement with the Town of New Scotland – Heldervale Sewer District in concept and the contract be brought back to the Town Board once the arrangements are finalized with the Town of New Scotland. The motion was seconded by Mrs. Davis and passed by the following vote:

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

Noes: None.

Absent: None.

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Councilman Davis asked if the contract expired in 2001, what has been done and if they were working at the same level. Mr. Secor said it was overlooked and billing has been done at the same level. He said it did not come to light until the last amendment and the agreement was looked up to apply the amendment to it, Mr. Tobin said the 20 year agreement has expired.

The next item was a request from Commissioner of Public Works, Bruce Secor, for approval and authorization of Supervisor to sign lease for North Street Snow Disposal Site.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve and authorize the Supervisor to sign the lease for the North Street Snow Disposal Site for 10 years at \$1,500 per year and a total cost of \$6,000. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The next item was a recommendation from Bruce Secor, Commissioner of Public Works, for approval to enter into Utility Work Agreement and cost sharing proposal regarding reconstruction of Albany County Route 52 pertaining to replacement of water mains.

Mr. Secor, Commissioner of Public Works, explained that Elm Avenue and Cherry Avenue are being rebuilt. He said there is a very old water main in the area and the County has been very cooperative in working with the Department of Public Works to allow this being replaced where they have to lower the road and relocate it. He said this would be to the Town's economic advantage to participate now while the road is being dug up. He said he was recommending that they go forward with this proposal.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to approve the entering into a Utility Work Agreement and cost sharing proposal regarding reconstruction of Albany County Route 51 pertaining to replacement of water mains as recommending by Commissioner of Public Works, Bruce Secor. The motion was passed by the following vote:

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

Noes: None.
Absent: None.

The next item was a request from Administrator, Nan Lanahan, Parks and Recreation Department, for approval of appointment of Seasonal Personnel.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve the appointment of seasonal personnel as listed on the Memorandum dated November 13, 2002 from Nan Lanahan, Administrator, Parks and Recreation Department at the titles and salaries listed. The motion was passed by the following vote:

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

The following item was to approve a Memorandum of Agreement for the Telecommunicators Contract. Supervisor Fuller noted this was a 5 year contract. She noted the Telecommunicators have met and approved the Memorandum of Agreement and the Town Board is being asked to approve it.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve the Memorandum of Agreement for the Telecommunicators Contract. The motion was passed by the following vote:

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

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Supervisor Fuller thanked Councilman Plummer and Mrs. Kehoe for their work on this contract.

The next item was a request to cancel Town Board meetings of November 27 and December 25, 2002 by the Supervisor.

The motion was made by Mrs. Davis and seconded by Mr. Marcelle to approve the cancellation of Town Board meetings for November 27 and December 25, 2002. The motion was passed by the following vote:

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

The next item was to acknowledge receipt of the 2001 Annual Report of the Town of Bethlehem Police Department. Supervisor Fuller thanked Deputy Chief Corsi for a job well done and certainly appears that we had an increase in domestic violence.

The following item was to acknowledge receipt of Quarterly Franchise Fees from Time Warner Entertainment-Advance/Newhouse Partnership for the 3rd quarter of 2002 in the amount of \$75,119.07.

The next item was to acknowledge receipt of Final Plat for the Milltown Plaza Subdivision, Wemple Road, Glenmont, from the Planning Board for information purposes.

The following item was to acknowledge receipt of Conditional Approval of Final Plat for the Horne Subdivision, Maple Avenue, Selkirk from the Planning Board for information purposes.

Supervisor Fuller noted Mr. Secor had to add an item for the award of bid for the replacement boiler at the New Salem Water treatment Plant. Mr. Secor explained that at the last meeting he asked for approval to go out to bid for replacement of this boiler because it had failed. He said five (5) bids were received after going out to bid and recommending award to the low bidder.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to approve the award of bid for the replacement of the low pressure steam boiler at the Vly Creek Water Filtration Plant to the low bidder, Gould Erectors and Riggers, Inc., Glenmont, NY at the bid price of \$79,385. The motion was passed by the following vote:

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

Supervisor Fuller asked if anyone wished to address the Board. Mrs. Rymski said she hears rumors and gossip and second hand information but it seems that when we were hard hit with the water restrictions that there are people who are allowed to tap into the lines outside the Town of Bethlehem who really did not feel the need to be as conservative with their water use as the residents. She said she understands that some people are not paying for their water because of some of the old easement agreements and stuff like that because lines went through their yards. She said she understands that other fire departments are allowed to tap in and draw water for their use and sometimes that use is ending up filling cisterns. She said she really does think the Town needs to monitor a little more closely who is tapping on our water lines that is not directly within the Town borders. She said they also have to abide by the restrictions that are placed on the residents of the community. She said she tries very hard to abide by them and she is sure some other people from a rural background and lived on wells for so many years understand the consequences of loosing their water supplies. She said other folks just did not seem to have the same level of concern as those who are in the Town according to the hearsay she has heard. She said she did not know if by increasing the water payments they have to make that they will realize they are also part of the solution when there are water restrictions or what can be done to make sure that they are not using our water frivolously just because they happen to be very privileged to be tapped into our water.

Supervisor Fuller asked Mrs. Rymski if she had names of who the individuals are, noting she was not asking at that time but if she could get them to Mr. Secor. Mrs. Rymski said she understands that many of the residents in New Salem do not seem to express a great concern. She said that seemed to be the community feeling out there that they were not concerned. She said she mentioned water conservation and she would get kind of a “we don’t have to worry about that, we don’t live in the Town of Bethlehem”. She said when they are using the Town’s water they should be concerned about it. She said it is a concern that she has.

Supervisor Fuller thanked Mrs. Rymski.

Councilman Plummer next said he had a quick remark regarding the Telecommunicators Contract. He wished to acknowledge Judi Kehoe, noting she was terrific and persevered through the whole thing. He said she was very much in control of all the issues and she does not get enough credit, he believed, for what

she does. He said she is a real asset to this community and thanked Mrs. Kehoe. Supervisor Fuller and Mrs. Kehoe thanked Councilman Plummer.

The Supervisor asked for a motion to adjourn to Executive Session to discuss pending litigation. The motion was made by Mrs. Davis and seconded by Mr. Plummer to adjourn to Executive Session following the close of the regular Town Board meeting to discuss pending litigation. The motion was passed by the following vote:

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

Supervisor Fuller wished everyone a Happy Thanksgiving and Happy Hanukah.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to adjourn the regular Town Board meeting at 9:53 p.m. The motion was carried by the following vote:

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

Town Clerk

EXECUTIVE SESSION

There was no formal action taken at the Executive Session.