



/s/ Kathleen a. Newkirk

Sworn to before me this 4th  
day of September 1992.  
/s/ Kenneth P. Hahn  
Notary Public, Albany County

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SUPERVISOR RINGLER: Thank you, Kathy. Motion to indent.

A motion was made by Ms. Galvin and seconded by Mrs. Fuller 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: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin,  
Mrs. Fuller.  
Noes: None.

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SUPERVISOR RINGLER: Okay, this public hearing is as a result of a great deal of work, a great deal of time by many individuals in attempting to reach an agreement with A-R Cable Services. We had a citizens committee and then we had a negotiating team and they worked on this, I think, almost 2 years trying to get the best agreement possible for our Town in line with current laws. Sherwood Davies was on our original committee and a couple other people I don't think are here tonight, Stafford Davis is here, and Steve Shaye of Cable Commission who is a resident of our Town and worked on our negotiating team together with Sheila Galvin of the Town Board were on our recent negotiating team.

This contract does not provide everything that we would like to have in a franchise because many of the things we would like to have we can no longer have by law, that the rate control -- which is probably the biggest concern of everybody regarding cable tv. The Federal Government is now looking at that again, and there is attempts to pass legislation which will re-regulate this industry and if it is re-regulated, this franchise will allow us, once again, to have that power over the cable company. But, this franchise agreement could not get into rates nor programming which is the other major issue because they are prohibited as far as our involvement is by the Federal Government.

I would ask Steve Shaye, who has been most helpful to us to give a brief outline of what this agreement says and then we will open it up to any questions that you might have and then we will ask anyone who would like to speak in favor or opposition to do so. Steve.

MR. SHAYE: Thank you. What Ken said is absolutely true, the framework for negotiations with cable television franchising has changed over the last several years. It used to be that municipalities had to approve every rate increase the cable company had. As many of you are aware since 1984, that is no longer the case so companies have been free to charge what they would like with regard to televisions rates and the programming and also specifically they can choose what programs they may carry on their system. A municipality cannot dictate specifically what services have to be provided. They can ask for broad categories of programming but they cannot get into specific areas. So, if you are looking for a specific channel, this contract really couldn't get into that area because the Federal Government prohibits municipalities and State governments from requiring specific services. But, that is all that the Federal Government really prohibits. There are many subject areas which are covered by this document that are included and were allowed to be included by existing law.

And, just let me highlight a few of those. First of all the municipality and the company can negotiate where the cable goes in the community. Typically speaking, they are called line extension policies. This franchise lowers the threshold from what the State

average certainly is -- which is 35 homes a mile where cable companies have to serve down to 20 homes per mile. In addition, this franchise specifically highlights areas below 20 homes a mile and there are 5 or 6 areas which I think will later be pointed out on this map that are included below the 20 home thresholds. So, that was one area of major negotiation. Another area was an area of gross receipts paid to the municipal government. Under federal law, municipalities are entitled to acquire 5 percent of gross revenue. This franchise now reflects that which is a substantial increase from what was paid under the prior contract. In addition, there are other subject areas that are vital to municipal governments if they take the time and effort to include what they can include under the federal law. Some of these areas included customer service. This franchise, some of you may have taken the time to look at it, has several pages on customer service requirements. The companies must live up to these and it is up to and a municipal government can require these customer service standards, such as rebates as to when the cable is out and when the company has to rebate subscribers and I think the present franchise requires if a cable company service is out for 4 hours, they must rebate subscribers for a full day service. In addition, there is substantial monies for public and educational access. Public access, as many of you are aware, is a program from the library. The library will be reequipped over the next 10 years, substantial monies in the first year and monies half way through the franchise which will give us a chance as a community to communicate with each other with sophisticated equipment and the ability that local municipalities can utilize that has not been utilized in a lot of communities will now be more readily available and more state of the art due to this particular franchise. In addition, there are other requirements in here with regard to educational access, where certain monies go to the schools with regard to access equipment. In addition, the provisions regarding accountability are very important in this particular document.

A security fund has been established where if the company violates the franchise, they would have to pay a monetary fine to the municipality. It is such that it isn't up to the company to argue about it, it is something that is particularly delineated in the franchise where if a violation -- for example in franchise fee payment or an extension wasn't made on time -- the company would be at the discretion of the Town Board fined a certain amount of money from the security fund. This is pretty unique in franchises across New York State so there is much more accountability then you would have seen in other franchises. In addition, there is strengthened language on transfer of control and performance bonds.

Maybe the most vital element and the last I will mention now is the rebuild of the cable system. Under this particular franchise document, the company is required to rebuild their system at the latest in about 2 years and 3 months it will have to be completed but the company will make their best efforts to complete the rebuild by June of next year. This system will be state of the art, 550 megahertz system which will be capable of carrying many more channels than is now available. So, while we couldn't require specific programming, what we will see is a state of the art system which will have many more programming channels than presently exists. So, what you have now is a new franchise, a modern, as good as there is across the capital region, as good as there is probably in the State of New York for a community of this size.

SUPERVISOR RINGLER: Thank you Steve. Are there any questions of the Board at this point in time. I know the Board had an opportunity at the last meeting but have any cropped up since then. If not, I will open it up to questions from the floor but what I do ask is, you do not have to walk all the way up to this microphone, this is very sensitive, it can pick it up but I do ask that you stand and identify yourself for the record. Does anyone have any questions?

DAVID LIESCHULTZ: I live on Devon Road in Delmar. Being relatively new to the community and having actually lived in Guilderland before we moved to the Town of Bethlehem, I was surprised that the Town of Bethlehem seems to have a different franchise than most of Albany County. That is my impression that Capital Cablevision services the entire sort of west side of the river except our Town. Could you

give me a little background in history because Capital Cablevision seems to be, at this point in time, a far superior system to Cablevision system? And, I am just wondering what the history is, notwithstanding the new agreement but the background.

MR. SHAYE: That's.. the question that they are far superior is obviously a matter of opinion. But, the history of the situation is that cable television franchising was such that cable companies went to municipal governments and made proposals and each municipal government separately made a decision as to whether or not... as to... they chose which company they thought would best serve the community. Back in 1976, I believe Capital Cablevision and what is... was Adams Russell at that time, and now is Cablevision both bid on the franchise. The members of the Town Board at that time, felt that Adams Russell would give them a better deal. And, back in 1976 when that system was first built, there were many advantages to this particular system. Now, we are at the end of the line and this system is going to be rebuilt and at some point in every cable system's history, they need to be rebuilt. We are at that point in Bethlehem so you will see a dramatic increase in services over the next year or two. But, the specific answer to your question is it was a decision made throughout the 70s and 80s by municipal governments individually. There was not a regional choice, so each individual company could... each individual municipality could choose whichever company they thought would best serve their residents.

MR. LIESCHULTZ: I'll just... if I could just follow-up, if there is an increase in the system, you say the service to be rebuilt, how does that work? Specifically, does that mean that some of us who have cable now are going to loose it while they are rebuilding it or what.

MR. SHAYE: I would think that that is not the case. There may be a short period of time, a matter of minutes or maybe an hour's worth where the cable would be out but everybody in the community over... by the end of 1994 will have a modern 77 channel system. So, you are going to have the possibility of having at least activated maybe 50 channels immediately and the ability to have many more channels activated over the next several years or months. The company hasn't yet submitted their plan, they have 6 months to submit a plan to the Town that will speak about where they will serve first and what is going to happen. But, there is a requirement that a plan be submitted to the Town and that they not deviate from that plan without prior approval from the Town.

MR. LIESCHULTZ: Thank you.

MR. DAVIES: Sherwood Davies. Has the Town submitted to the cable company the draft of this franchise agreement and have you received comments from them?

SUPERVISOR RINGLER: This was as a result of many negotiation sessions where we went back and forth, argued and sometimes walked out but not very often and they were involved in it right up to the end. And, now that this is being brought to the Town Board, is as a result of a tentative agreement being reached between our negotiating team and the cable company.

MR. DAVIES: So, it is almost a little late to make comments then.

SUPERVISOR RINGLER: No, we have a tentative agreement, it has not been signed. It is never too late to make comments until it is signed. But, before we wanted to bring something to the public... we did, as you know, have public hearings before this process began so that the public could have input so that we would know what we would be looking for and this agreement is as a result of that particular effort along with the negotiating team's effort.

MR. PAT KENDRICK: My name is Pat Kendrick, I am a resident of the Town for 35 years but retired. It seems to me that a 10 year contract is an awful long contract. Like professional ball players, once they sign a long term security contract they seem to lay dead and do not do anything. There is a few... I am a little late with my questions because I missed the last meeting. I would like to address

a few things. It seems to me that the balls are in the Cablevision's court, everything is to their advantage. I didn't hear anything to the consumer's advantage such as price fixing, programming we are going to see, when they can raise the fee. We don't have any control over that I understand. It seems like everything is in the court of the Cablevision. That is one question I would like to answer.

Will these new stations that are coming up, what kind of a raise in the fee will they get with these so called 75 stations, new stations we are supposed to get in the future. How do we control the price of these new stations? A lot of people in this Town are on a fixed income including myself and cost is a big factor. You can price the consumer right out of the television system. I would just like to address those questions if you would.

SUPERVISOR RINGLER: Well, Pat, as I mentioned at the beginning and Steve, I am sure, can add to this, is that we do not have the ability on the local level to control that by law, by federal statute we don't have that ability to control. There is a move in the Congress at the moment to change that and if that happens, we can, hopefully, have some control on that because as Mr. Smede knows from A-R Cable, I have written to him every time. Every time he puts a rate increase in he gets a letter from me about it because of just the concerns that you have and the percentages of the increases that this industry has been taking over the years is wrong without competition, in my personal view and I have been very vocal on that. Because, they really don't have competition and when you don't have competition you need some control. In 1984 they felt there was competition out there and it is not really the case. So, hopefully Congress will do something or there are other things that are happening out there right now and we don't see it yet but there is new technology coming along. The telephone company is installing fiber-optic cable and eventually they will be able to carry cable probably and you do have the wireless. I do not know how good they are but they are available at this point in time as an alternative. But, as far... I concur with everything you say that we do not have an awful lot to say and I don't like that considering the fact that they have a monopoly but that is the law that we are dealing with at the current time. Steve, would like to add anything to that.

MR. SHAYE: Just a couple things. Besides those two subject areas, the remarks I tried to focus on earlier was that there are many things that you can do something about. You might not see it in rates and you might not see it in programming but this franchise does have customer service standards, it does have money for the schools and it does have money for public access. It is important to focus on the areas you can do something about. We had many discussions during the committee stage of these particular two years we were preparing for the negotiations where we held the public meeting in this same room two years ago. Should we require a rebuilt system, should we require a cadillac system for Bethlehem, will that force rates up, and I think the consensus of most of the committee -- not everybody on the committee -- was that, let's get the best we can for Bethlehem because they are going to raise their rates anyways. They raised their rates for the last several years, they haven't seen an improvement in channel capacity but the rates have gone up so why not get the best system built in Bethlehem instead of Pennsylvania or Ohio because rates are going to go up while they are deregulating. So that was I think, one of the focal points that we stressed during the negotiations that it is important to have it state of the art system because we are going to pay for a state of the art system but it might not just be in our Town.

MR. KENDRICK: I just didn't feel comfortable being at the mercy of a large company and having nothing to say. It is a helpless feeling, you know, when you can't have any input but that was my question.

MR. SHAYE: Well, this franchise...

MR. KENDRICK: Thanks for addressing it.

MR. SHAYE: This franchise does tighten the reigns a little bit on the company. It does the most that we can do under the existing laws.

SUPERVISOR RINGLER: What about the contract length.

MR. SHAYE: The 10 years, it may seem like a long time but if you look at it from today -- first of all, one year has elapsed already, so it is 9 years from today. And, the way the federal law works, 6 years from now, we will start the renegotiation process already. So, it is 6 years from now, they have to rebuild the system, they have to amortize an investment -- I am not here to defend the company but they do need some time because they are going to be spending more than a million dollars to rebuild this system. So, there has to be some time to enjoy some return on investment and if we gave them too short a period of time, we would not get the commitment to rebuild the system. And, that is the reason why and 99 percent of the franchises in New York State when they are renewed, they are for 10 years and we are already a year into the franchise and the renegotiating process starts 3 years prior to expiration.

MR. KENDRICK: Thank you.

MR. SHAYE: Sure.

MEL HYMAN: Mel Hyman from the Spotlight. I am not really sure I understood the response that you gave to that gentleman. If the system has to be rebuilt, the system has to be rebuilt in any case. I think the question that he was asking or indicating was does the state of the art system going to mean a substantial increase in rates for the Town of Bethlehem and do those people, you know, ready to pay that for the extra services.

MR. SHAYE: In my opinion, the answer is no. I think a rebuilt system.. I think the rates will go up under a deregulated environment whether there is a rebuilt system or not. And, if we want in Bethlehem the best system for our residents, and require the best system, will our rates be higher. Maybe the company would say yes, in my opinion the answer is no. The rates have gone up dramatically since 1985, people have.. the Supervisor has commented on that. They have gone up everywhere whether or not a system has been rebuilt. So, there has been no tremendous investment in the system, rates go up anyways. That was the point I was trying to make. Is that, even if we had required a rebuilt system 4 years ago, I believe the rates would be the same today, that they are now. So, I don't believe... I mean, I think it means less profit for the cable television company as opposed to even higher rates for cable subscribers.

MR. DAVIES: Ken, if there is a representative of the cable company, I think these questions might well be answered by the cable company. I think Steve is with the State Cable Commission.

SUPERVISOR RINGLER: Well, exactly and if there are specific questions, George... anything you would like to add to this. Are you going to tell us you are not going to increase rates. I would love to have you get up and say that tonight, I am sure the residents would love to hear you say that as well.

MR. SMEDE: No, I think what Steve has said is right on the money, I would agree with him. If we had rebuilt the system 4 years ago your rates probably would be about the same they are right now. The advantage of rebuilding the system along with it being mandatory, is that it is something that companies have to do because it just wears out and the technology bypasses you. So, the advantage to rebuilding is that you can now take advantage of all the new little bells and whistles that hopefully will give you some additional income. Whether it be just addressability, tape review, whatever it might be. So, there is more revenues. I think you think of it in terms of if the system stays like it is, sort of stagnant, we have reached our channel capacity, we can't add anything new about all we can do to increase revenues to offset costs, we can't get more people because we have just about penetrated the Town as high as we can go. In fact, we are getting a slight roll off of pay services, so our revenue per sub is actually going downward, so the only alternative to keep up with inflationary pressure is to raise rates. Hopefully, after you rebuild the system, you have other ways of getting revenue, you probably can offset that to some degree.

So, I would agree with Steve, you probably won't see rates any higher than you would anyway, even though you are rebuilding because there is more opportunity to make more money. Does that...

SUPERVISOR RINGLER: Question, right behind Sherwood.

MR. CAPLAN: Mr. Milton Caplan, a resident of Bethlehem. If the federal government decides in its infinite wisdom to put regulation back on the books, are we locked in for the duration of this? In other words, for the 10 year period or whatever, we are in no position to discuss programming or rates.

SUPERVISOR RINGLER: Anything that the federal government puts into.. adds to this for regulation, this franchise allows us to take advantage of, correct?

MR. SHAYE: Correct, on rates. On programming, that isn't an issue that is... It hasn't been addressed and it hasn't been addressed in the proposed bills. That isn't even an issue that has even been thought of of giving back...

SUPERVISOR RINGLER: The federal government is currently looking at rates, not programming.

MR. KENDRICK: Ken, I don't want to beat this thing to death.

SUPERVISOR RINGLER: That is okay. Go ahead, let George hear it, because every time he hears it he goes back to New York and tells them.

MR. KENDRICK: I just want another question and then I will shut up. How do we know when the cable company says they need higher cost... higher fee for operating, I mean, we are at the mercy, let's face it, any time you feel like raising it, you can raise it, we have no say. How do we know this is justified? That is the question that gets me and then I will shut up.

MR. SMEDE: Okay, answer it two ways. One is, personally, you probably wouldn't unless you go to the Town. The Town has to some degree some privy information, the State does, on how we do but the problem is, Bethlehem itself, the little franchise of Bethlehem includes like New Scotland and Voorheesville and in the whole, it also includes all of what they call A-R cable services which is a corporation in New York State. So, the profit and loss that you see for our company, is as a whole, it is not just Bethlehem. So, in some cases, you could say this franchise might subsidize another one or another one might subsidize this one. It is very possible as you look at it as a whole company. So, to answer that question, you probably never will know that for sure unless Steve can come up with some other idea. We will have, however, a new reporting form for franchise fees that they have required in the franchise which I think will break it down enough that it would probably at least you would know if you are off base with it because to give those franchise fees, we have to tell basically what our revenues are, how many subscribers we got, what we get for the different services and it is broke down pretty much in detail and you can see that form after the meeting if you would like, I am sure.

Other than that, I think the other problem cable companies have is the fact that we are not regulated. If we were regulated, like telephone and we come in and said, your bill is \$80. per month, and somebody says yup, that is what it takes to make a profit, they are only making 19 percent, you wouldn't say a word, I am sure but because you don't know, there is an assumption that there is a lot of profit being made. And, I can understand that because I feel the same way. So, I don't know how to answer that question except that I think that we will be regulated before very long and you probably won't have to worry about it.

MR. KENDRICK: Okay.

SUPERVISOR RINGLER: I think, as I pointed out one time -- and correct me if I am wrong George -- since 1985 and he does not know if this is 2 rate increases ago but it was 147 percent increase.

MR. SMEDE: Yes, somewhere around there.

SUPERVISOR RINGLER: Since deregulation.

MR. SMEDE: If I may address that too, just one more, it is difficult. Ken is looking at it from a very one sided approach...

SUPERVISOR RINGLER: The consumer.

MR. KENDRICK: I am glad we got Ken.

MR. SMEDE: Yes, he is a good man, I will go along with that. One of the problems we had -- just to give you one little example -- is somebody will say over in Capital you can get this rate for this. Well, who says Capital's rates are right to begin with. But, anyway, let's say they can get service level, the same as you get here, and yes, it is \$1.00 less or something. And, I don't know off the top of my head what it is but let's say that. The problem we have is that you are always talking apples and oranges. Now, in Capital, the basic line up, does not include sports channel and MSG -- too more expensive channels. Our does, and we put that into the -- what they call the basic family package many years back and one of the reasons we did that, was we spread the cost of those two channels across the whole subscriber base and by doing that, it meant that the individual increase was very slight and way back then I don't... it might have been a dollar or so. If you broke that out because of the cost of those two programs, and the few people...I shouldn't say the few but the percentage that would take just those programs, you probably would have to charge somewhere between \$10 and \$15, just for those two programs to get the revenue to pay the cost on it. So, there are things like that that go on and some other cable companies have other channels in, some other cable companies have their basic just with broadcast stations so their copyright charges are a lot less and there is a whole maze of ways of manipulating the channels. And, that is another reason why you will find most cable companies don't want anybody to dictate what channels they carry or how they carry them. I know it is probably more confusing than you started out with but I think the bottom line is with your original question, probably the franchise takes care of that to some degree.

SUPERVISOR RINGLER: Sheila.

COUNCILWOMAN GALVIN: I would like to speak to one point that George made at the beginning of his statement and that was about the amount of information to which the Town was privy. Prior to the proposed agreement and before any new franchise, that amount was at best minuscule. However, I think if you review the agreement as it is proposed, you will discover that it is substantially increased and something that might speak directly to some of the issues that both you have raised and Sherwood have raised previously, goes to Section 14 of the proposed agreement, accountability and sub section b. which appears at page 27 which states specifically -- at the request and invitation of the Town during the term of this agreement A-R's general manager shall appear at public sessions scheduled by the Town to answer the inquires of representatives of the Town and the residents of the Town pertaining to the operation of the cable tv system in the Town. Not only are records going to be much more available but also the accessibility to the cablevision personnel. In particular the general manager, who I am sure is just thrilled about this, to the residents of the Town to be accountable to you directly on these issues.

SUPERVISOR RINGLER: Thank you, Sheila. Other questions?

ATTORNEY KAPLOWITZ: George, when the Town... the municipalities lost the right to regulate rates, did the State Commission also loose the right?

MR. SMEDE: Yes. One of the problems, if I could address it, one of the problems we had before with rate regulation and I think generally right now, if you were to ask the cable industry, they would say they would welcome some type of regulation. Simply because it has become such an issue, I am serious about that, its become one of these things on your back you cannot get rid of. The problem is, if you

went back to the days of rate regulation with a municipality, it was a political decision and a company cannot run their business if every time they come before a body that is politically run and say I need 50 cents and they say I am not going to give it to you. By the time you get the 50 cents, now you are a dollar down and you can see... so the regulation has to be fair and some how you have to determine whether they need it or not -- and I wouldn't say like telephone has because that is based on a whole different system. That is rate base and rate of return and.... something like that.

SUPERVISOR RINGLER: But, I concur, I think we need something when we get regulation back is we need somebody -- for example, the Cable Commission is similar to the Public Service Commission that can be looking at these things and give the advice to the towns. They have the expertise in this area and I hope that is what they do because what it comes down is, if we are going to have to do that, let's face it, it is going to cost a great deal of money and so forth and tear your books apart and determine whether or not it is legitimate and so forth. But, I think that you are right. Any other questions or comments? Yes, sir.

MR. LEWIS: My name is Steve Lewis, I am a resident of Delmar and probably not inappropriate to ask a couple of questions regarding the programming plans of an enhanced system and I am just curious at this point. Given the fact that we are going to a 70 channel system, is it the plan of the company to enhance basic cable, that is to provide additional channels within the basic package. That would be the first question and also is there a plan to enhance the technology associated with the channels for such things as stereo reception from satellite stations, which I understand the company does not currently provide. With those two questions.

MR. SMEDE: Yes, we plan on having stereo, that we plan on having.

MR. LEWIS: Would that be for all satellite stations that would offer stereo coverage.

MR. SMEDE: I don't think I could say for all stations but it would be for the bulk of them, definitely the ones that it would enhance the viewership of it, like your pay services, HBO, of course, MTV, VH1 and those type.

The first question though, that is a little more difficult. If and I think a gentleman in the back probably hit it on the nose originally, if we were to say -- we will give you 55 channels of basic, obviously each one of those channels cost us something so, you would have to raise the rates. There is a point where you raise rates it becomes unaffordable, really. So, I think probably what you are going to see happen is when that time comes, we are going to have to offer different packages, maybe there will be a sports package, maybe there will be a package basically in movies or something but maybe different varieties where somebody could pick what they want to see similar to what they have down in Yonkers or something right now, something along those lines. I don't see how you could keep just adding channels in and raising the rate and having no fall back position. So, there has to be... maybe even a lifeline type service where you can come in lower. Right now, maybe you could address that, Brodski has a law out that sorts of forbids that at the moment and the cablevision association lost that... I just found out... lost that appeal, so maybe you could address that a little bit to help them out. That is a tough question.

MR. SHAYE: Well, there are some issues to downgrading. They can downgrade their packages if they choose to do so.

MR. LEWIS: That was the follow-up question.

MR. SHAYE: They could do that, they could make a lower basic service but they have to allow you to get to that level free of charge, they could not charge you for that privilege of downgrading. It used to be that downgrade charges... companies instituted downgrade charges.

SUPERVISOR RINGLER: Excuse me, can I interrupt just a second. Wasn't one of the bills just like that and we felt it was going to be

useless, that they were going to deregulate or regulate the basic package and they were going to be able to reduce that down to nothing and still not regulate beyond that.

MR. SHAYE: Of the two bills in Congress, one would regulate just a lifeline service and one would regulate the enhanced basic like we did here in Town. Cablevision, the company, operates in Long Island, is there main base headquarters and they have instituted a practice in Long Island where they have sort of a pick and choose method. They do have a basic or family cable in Long Island but they also have in a new system they built in Huntington, sort of an ala carte method where you can pick and choose systems, actually reduce your rate if you want less services. My guess would be and George would have to... we would probably know better in 6 months when we get the plan for the rebuild. I think it is a little premature to know exactly what services they are going to offer but my best guess is, we will probably see some of the channels that are on share basis now coming onto basic service and maybe a few others but then there will probably be some type of service similar to what cablevision offers as a company corporate wide. Some of you may be familiar they operate in Long Island and other places but it may give more freedom for people to choose as to how they want to spend their money. Obviously, they will be the enhanced addressability and tape review which is not available now that will give people more freedom to compete with the video rental stores.

MR. LEWIS: If I might, just one more. With the freedom you speak about, I sense a bit of risk as well, that we could easily find ourselves in the situation where we are getting... if we wanted to keep the package that we have now, we could find ourselves in an enhanced situation having to pay an enhanced rate if we wanted the two sports channels.

MR. SHAYE: My fear only in that area is in the sports channel area, in the Madison Square Garden and sports channel. My guess is and I don't know this and it isn't something we could negotiate for as a town but I think... my guess would be that those are going to be separated out from basic because they are expensive services and the sports fan may have to not get the bargain he has been getting all along compared to the other systems in the area because as a sports fan, you have been getting a bargain here because you do not have to pay extra for sports channel or Madison Square Garden. And, if you like the Yankees, and you like the Mets then you have paid less than you would in Capital Cablevision or Troy New Channels, substantially less.

MR. LEWIS: Just to be clear though, about the risk... there is a risk to rebuilding the system that could wind up costing citizens more for what they have... let's say, accustomed to.

MR. SHAYE: But, there are many non-sports fans who might be a lot happier not having the sports and enjoying less rates than before.

SUPERVISOR RINGLER: I think I should emphasize one thing, the rebuild was going to take place in any event, just that we got them to do it sooner because of some quality problems that we found in our system through the public hearings, okay. They were going to do a rebuild as part of their normal course of business events, they had already applied, I believe, to the cable commission to do that before we started negotiations -- am I correct on that?

MR. SMEDE: Right.

SUPERVISOR RINGLER: So that, what we negotiated for was to expedite that because of quality problems that were brought to the attention of our committee.

MR. SHAYE: I think the rebuild will be a tremendous advantage to the community.

SUPERVISOR RINGLER: Any other questions? Is there anyone who would like to speak in favor of this proposal.

COUNCILMAN GUNNER: I have a question.

SUPERVISOR RINGLER: Oh, sure Charlie.

COUNCILMAN GUNNER: Sherwood, are you going to ask your questions that... from this paper I received.

MR. DAVIES: I was going to comment when the time comes.

SUPERVISOR RINGLER: When you speak in opposition, he is going to read that into the record.

COUNCILMAN GUNNER: I will wait.

SUPERVISOR RINGLER: Anyone like to speak in favor of us adopting this franchise agreement? Anyone who would like to speak in opposition to us adopting the franchise agreement?

MR. DAVIES: My name is Sherwood Davies... before I... I believe the Board has copies of what I am going to say but before I make comments, I just want to say that the past and present Town Supervisors have objected to recent annual cable tv rate increases indicating (1) concern for subscribers, (2) increases more than enough to cover operating costs, (3) the Town Board passed a resolution opposing rate increases as unfair and arbitrary and (4) other companies charge up to 27 percent less than our own cable company. Just if that may set the perspective of what I want to say.

I am opposed to the proposed cable tv franchise agreement as presently drafted. The original agreement effective August 1 of 1976 was a franchise granted by the Town to Bethlehem Video Inc., a subsidiary of Adams Russell Company, Inc. Customer billing and recent correspondence with Town officials indicates that Cablevision is the present owner of the local tv cable company. The Town records fail to show approval of the transfer or sale of Bethlehem Video to Cablevision as required by the original franchise agreement. Annual reports as required by the franchise apparently are not received in a timely fashion with minimal information on any profit or loss of the local tv franchise. The 1984 federal legislation limited control by local authorities over cable tv rates and programming. As a result, our cable tv rates increased by over 300 percent between 77 and 89 with inflation increase in only about 200 percent over the same time. It is difficult to understand the reason for such a difference. Federal legislation does require that the cable operator comply with the material terms of the existing franchise and that two the cable operators proposal is reasonable to meet the future cable related community needs and interests taking into account the cost of meeting such needs and interests. I emphasize taking into account the cost of meeting such needs and interests.

Prior to granting the franchise, I would urge the Board Members to determine if the company met the conditions of the original agreement, i.e. annual reports, and approval of the transfer. The Board should also determine that the cost of meeting the community needs and interests are met. The franchise agreement will require that the company provide 77 channels. This requirement will cost approximately on average \$250 to \$300 per cable subscriber. Will the cable company justify future rate increases because of this requirement? Will the additional channels be for the benefit of the company, i.e. pay for view channels and more home shopping programs? Would it not be more advantageous to the community to eliminate this requirement and promote another competitor. The State already requires an increase of 77 channels, why should the Town also duplicate this requirement? I urge the Town Board to eliminate this requirement from the franchise agreement unless the cable tv company can justify such upgrade.

The agreement indicates that the technical and financial ability and character of A-R were considered and approved at this hearing tonight. Has the Board made an evaluation or are you dependent upon the State to make this evaluation? If so, then I think the agreement should reflect this fact. Annual reports as required by the franchise should be more specific as to the content to better reflect the customers interest and the profit and loss from the franchise operations in the Town of Bethlehem. Reevaluation has impacted many Town residents particularly older residents with significant tax

increases. This year's school/property tax and last year's Town and County property tax increases significantly exceeded the increase in the rate of inflation. The 1992 14 percent increase in the Albany County sales tax will further impact many retirees on fixed incomes. In lieu of the Town collecting the 5 percent franchise fee from cable tv, why not eliminate such fee and reduce the customers cable tv rates.

It is proposed to extend the agreement until August 1, 2001, in light of the recent proposals to again regulate the cable tv industry, I would urge the Board to extend this agreement for only 5 years. Will the Town require that the above ground cable services in the older parts of Bethlehem be put underground as they do for newer subdivisions. Appendix B of the report of the cable company to the Town should be revised to permit the Town officials to make the determination that the community needs and interest are being met as required under federal legislation. This includes the costs of meeting such needs and interests. Additional fiscal information would be needed. Thank you.

SUPERVISOR RINGLER: Thank you. Is there anyone else who would like to speak? If not, I would entertain a motion to close the hearing.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that the public hearing be closed at 8:15 p.m. The motion was passed by the following vote:

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

*Kathleen A. Newkirk*  
Town Clerk

SUPERVISOR RINGLER: Thank you all for coming, the Board will be thinking, reviewing the comments here tonight and we will put this on a later agenda for consideration. I thank everybody for your comments, particularly...

COUNCILMAN GUNNER: Excuse me, Ken, will we be assured that the rest of the Board will get answers to the questions that were just asked?

SUPERVISOR RINGLER: Yes. I will go through that, Steve -- I will have him look at some of this and I will come up with a response.

COUNCILMAN GUNNER: Is it true Steve that the State is... requires the 77 channels?

MR. SHAYE: We require a rebuild and all Capital District systems are going to be rebuilt to 77 channels.

COUNCILMAN GUNNER: By when?

MR. SHAYE: Differing dates.

SUPERVISOR RINGLER: This one was December 1994 and our franchise has been using best efforts to finish it by June of 1993.

COUNCILMAN GUNNER: Which may in best efforts, be in a few months.

SUPERVISOR RINGLER: Yes.

MR. SHAYE: A year and a half difference.

SUPERVISOR RINGLER: Actually, we had wanted to get it done quicker than that but that was a negotiation point. I did have one other thing, George, before I forget and that is the line extension. I would like to look at the South Bethlehem area. So, we can get involved in that one tomorrow.

MR. SMEDE: I know where it is on here so.

COUNCILMAN GUNNER: I have a... I guess a personal type question. Nick Nealand who is the AB director up at the high school is here and I know for a while we had a head up at the high school and then 4 or 5 years after we had it it was out, where are we at now in the high school?

MR. NEALAND: We park it for the summer but the service has been substantially good for the last two years or so. We just had one of our guys... oh, here he is, how are you doing?

UNIDENTIFIED GENTLEMAN: Hi, Nick.

MR. NEALAND: We meet each other on a regular basis and if there is a problem, they attend to it rather quickly. So, that particular part of it has improved.

SUPERVISOR RINGLER: Thank you. Thank you in particular, Steve, Stafford, Sheila, Sherwood, everybody that worked on this, thank you very much.

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HEARING BEGAN: 8:20 p.m.

SUPERVISOR RINGLER: Next item on our agenda is a public hearing in the matter of extending Water District No. 1 for CITGO petroleum. I would ask the Town Clerk to read the call of the hearing.

Public Hearing  
Extending TOWN CLERK NEWKIRK:  
Water District  
No. 1 -  
CITGO  
Petroleum

IN THE MATTER OF EXTENDING  
WATER DISTRICT NO. 1 OF THE TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK  
ORDER-HEARING  
PROPOSED CITGO WATER EXTENSION

WHEREAS, a written petition from owners of taxable real property (a copy of which is annexed hereto) has been presented to and filed with the town board of the Town of Bethlehem, Albany County, New York, requesting an extension of Water District No. 1 of said town to include their properties and showing the boundaries of the proposed extension, together with a map and plan of the proposed water system; and

WHEREAS, there has been filed in the office of the Town Clerk of said town, a map as referred to in the annexed petition, plan and report prepared by J. Kenneth Fraser & Associates, P.C., engineers duly licensed by the State of New York, setting forth the details of the proposed extension; and

WHEREAS, the boundaries of the proposed extension to the said District are set forth in the annexed petition; and

WHEREAS, the maximum amount proposed to be expended for the said improvement is the sum of \$98,700; and

WHEREAS, the Citgo Petroleum Corporation, R.d. #1, box 356 River Road, Glenmont, New York have agreed to pay all costs and disbursements incurred by said Water District in connection with said application, including legal, engineering costs, and labor and materials; and

WHEREAS, said map, plan and report describing said improvements are on file in the Town Clerk's office for public inspection.

NOW, on motion of Councilperson Fuller, seconded by Councilperson Gunner, it is hereby

ORDERED, that the Town Board of the town of Bethlehem shall meet and hold a public hearing at the Town Hall, 445 Delaware Avenue, Delmar, New York on the 9th day of September, 1992 at 8:00 o'clock, p.m. on that day, to consider said map, plan and report and to hear all persons interested in the subject thereof concerning the same, and take such action thereon as is required by law, and it is further,

ORDERED, that the Town Clerk be and she is hereby directed to publish and post certified copies of this order at the time and in the manner provided by law.

The adoption of the foregoing order was put to a vote and upon roll call the vote was as follows:

AYES: Mr. Ringler, Mr. Webster, Mr. Gunner, Mrs. Fuller.

NOES: None.

ABSENT: Ms. Galvin

DATED: August 12, 1992

BY ORDER OF THE TOWN BOARD  
TOWN OF BETHLEHEM  
KATHLEEN A. NEWKIRK, TOWN CLERK

- - -

STATE OF NEW YORK )  
COUNTY ALBANY )

KATHRYN OLSEN of the Town of Bethlehem, being duly sworn, says that she is the bookkeeper of THE SPOTLIGHT, a weekly newspaper published in the Town of Bethlehem, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said THE SPOTLIGHT ONCE A WEEK FOR 1 WEEK Consecutively, commencing on the 26th day of August 1992.

/s/ Kathryn Olsen

- - -



MR. SECOR: It is quite a distance from there down to Wemple Road and he does not have that dimension -- yes, it is more than a mile. And, it is all corn field on one side and we talked to VanWies Point a number of times about getting water but with all the rock and the scarcity of housing, you know, it is very sparsely density... population density is very low, none of the cost estimates down there have ever been viable.

SUPERVISOR RINGLER: Do you have a resolution on approval of this as yet?

MR. SECOR: No.

SUPERVISOR RINGLER: We won't take any action on that tonight then. Thank you, Bruce.

Approve  
Change of  
Meeting  
Date to  
Nov.10  
due to  
Legal  
Holiday  
Nov.11

The next item on the agenda, I am making a recommendation that we move our meeting of November 11th to Tuesday, November 10th, as November 11th is a legal holiday. Entertain a motion to authorize the change of that meeting date.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the Town Board meeting of November 10th be changed to Tuesday, November 10, 1992. The motion was passed by the following motion:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin,  
Mrs. Fuller.

Noes: None.

Appoint  
Seasonal  
Personnel

SUPERVISOR RINGLER: Next is a request for Dave Austin, Administrator of Parks & Recreation, for appointment of seasonal personnel as per the attached list.

The motion was made by Ms. Galvin and seconded by Mr. Webster that the personnel listed on the Memorandum from David Austin, Administrator of Parks & Recreation Department dated September 9, 1992 be and they hereby are appointed to serve at the pleasure of the Town Board. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin,  
Mrs. Fuller.

Noes: None.

DARE  
Training  
Instructor  
Training -  
Officer  
Christopher  
Bowdish

SUPERVISOR RINGLER: Next I have a request from Chief LaChappelle for approval of Officer Christopher Bowdish to attend DARE instructor training, September 21st through October 2nd in Saratoga Springs, NY with use of police vehicle. The cost of the program is paid from the DARE funds.

The motion was made by Mrs. Fuller and seconded by Ms. Galvin that Officer Christopher Bowdish, be and he hereby is authorized to attend DARE instructor training September 21st through October 2nd, 1992 in Saratoga Springs, NY with use of police vehicle. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin,  
Mrs. Fuller.

Noes: None.

Appoint  
Alicia  
Jettner  
Project  
Supv. -  
SARA  
grant

SUPERVISOR RINGLER: Next a recommendation from Kathleen Newkirk, Town Clerk, for approval of appointment of Alicia Jettner, Jettner & Associates, Watervliet, NY as Project Supervisor in regard to the SARA records grant, effective immediately at \$11.00 per hour.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that Alicia Jettner, Jettner & Associates of Watervliet, NY be and she hereby is approved for appointment as Project Supervisor in regard to the SARA records grant. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin,  
Mrs. Fuller.

Noes: None.

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SUPERVISOR RINGLER: Next I would like to acknowledge receipt of Certificate of Approval of Final Plat No. 154-F for the Weisheit Subdivision, 4 lot subdivision on Weisheit Road in Selkirk.

Acknowledge  
Receipt  
Final Plat  
Weisheit  
Subdiv.

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SUPERVISOR RINGLER: Next I have a request from Karen Pellettier, Director of Senior Services, for approval of Caroline Wirth to attend a one day conference on Health Care for Elders, September 18, 1992 at the Holiday Inn in Saratoga, NY with the registration fee of \$85.00 paid.

Approve  
Attendance  
Caroline  
Wirth to  
Health Care  
For Elders  
Conference

The motion was made by Mr. Gunner and seconded by Ms. Galvin that Caroline Wirth be and she hereby is authorized to attend a one day conference on Health Care for Elders, September 18, 1992 at the Holiday Inn, Saratoga, NY with registration fee paid. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin,  
Mrs. Fuller.

Noes: None.

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SUPERVISOR RINGLER: Next a request from Chief LaChappelle to authorize Lieutenant Frederick Holligan to attend a Media Liability Seminar to be held September 29th with registration fee paid and transportation by police vehicle. Registration fee is \$125.00.

Authorize  
Lt. Holligan  
to attend  
Media  
Liability  
Seminar  
and use of  
police  
vehicle

The motion was made by Mr. Gunner and seconded by Ms. Galvin that Lieutenant Frederick Holligan be and he hereby is authorized to attend a Media Liability Seminar to be held September 29, 1992 with registration fee paid and transportation by police vehicle. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin,  
Mrs. Fuller.

Noes: None.

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SUPERVISOR RINGLER: Next I have a request from Judith Kehoe, Comptroller, for appointment of Casey Cornelius as a part time Clerk at the rate of \$4.75 per hour for the balance of the year, total of 100 hours. Six hours per week.

Appoint  
Casey  
Cornelius  
part-time  
clerk  
Comptroller's  
Office

MRS. KEHOE: Six hours per week, 2 hours a day for 3 days.

COUNCILWOMAN GALVIN: One question on that, I notice that we have that included within the 1992 budget. This would not in any way affect the budget line items.

SUPERVISOR RINGLER: No, there is additional monies in there in the account that were not used for budget director that we did not spend this year, so there is sufficient monies within the Comptroller's budget to do this. Correct?

MRS. KEHOE: Yes.

SUPERVISOR RINGLER: I asked you that when you asked... brought this down to me the first time.

COUNCILMAN WEBSTER: How are you going to pay for it?

COUNCILWOMAN FULLER: The only question I would have, is the freeze on hiring.

SUPERVISOR RINGLER: That is basically on full time. We have been hiring some part time and so forth and I am thinking of lightening up on that too, as marching it towards the end of the year.

COUNCILWOMAN FULLER: So, the freeze basically is full time.

SUPERVISOR RINGLER: Yes. There are only two positions right now that were approved as I understand right now and both of them were part time and I wanted to discuss that with department heads as the year goes on. If they can do without them, I am going to have them do it but I do have to start looking at that because we are on target with our budget for this year in the General Fund. So, basically, we are still watching our dollars but you know, everything is on track.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that Casey Cornelius, Delmar, New York be and she hereby is appointed to the position of part time Clerk for the Comptroller at a rate of \$4.75 per hour. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin,  
Mrs. Fuller.

Noes: None.

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COUNCILMAN GUNNER: Question on what you just said about the budget, do any of the tax rates that we are getting from this... the receipts we will be getting from this increased sales tax going to come in this year?

SUPERVISOR RINGLER: Yes.

COUNCILMAN GUNNER: In this year's budget? Is that what is helping us?

SUPERVISOR RINGLER: Well, how that works... yes, exactly, and there are a couple of other things out there, on the fire, we have got the Selkirk Cogen project is moving along and they are going to be paying a substantial fee to the IDA, which the IDA -- I believe -- is going to turn over to the Town to put it into this year. So, that will help us with our fund balance and we are looking at all those numbers. What happens with the sales tax is that, the quarter that is affected, I do not think we get until January. Is that correct?

MRS. KEHOE: It does not go into effect until September.

SUPERVISOR RINGLER: It does not go into effect until September, we actually do not get that check until January. So, cash wise, it does not help us right now but it will be accrued for the current year as a receipt for the current year and help our fund balance for next year. Did I say that right Madame Budget Director?

MRS. KEHOE: Yes.

COUNCILMAN GUNNER: Let me see if I understood what he said. You won't be getting it until the January but you can apply it to this year's budget.

MRS. KEHOE: We have earned it but we have not received it, so we can't recognize it as revenue.

COUNCILMAN GUNNER: So, it will be in this year's budget.

SUPERVISOR RINGLER: I can't take it as a revenue item for the next budget.

COUNCILMAN GUNNER: I guess I just want to make it... say it up front now, I am very concerned that this amount of money go back to the taxpayers because it is allegedly a one year plan and if now, I would like to know where it is going very specifically.

SUPERVISOR RINGLER: In our budget process you will know.

COUNCILMAN GUNNER: Well, I will ask.



Mrs. Fuller.  
Noes: None.

Appoint  
Casey &  
Lubbe, P.C.  
Town  
Auditors

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SUPERVISOR RINGLER: Next I have a recommendation from Judith Kehoe, CPA, Comptroller, for appointment of the firm of Casey & Lubbe, PC as Town Auditors. Federal Law requires the Town to have independent audits since our Federal funding exceeds specific specified limits. Our request for proposals from 4 area accounting firms to perform the following services. Program audits for the Section 8 housing programs for the 2 year period ending September 30, 1990. A single audit on a Departmental basis for Section 8 housing programs for the year ending September 30, 1991 and a Town-wide single audit for the year ended December 31, 1992. A summary of the proposals is attached, based upon my discussions with the proposing firms from our review of the written proposals, I recommend that we select the firm of Casey & Lubbe, PC. They demonstrated a good understanding of governmental accounting requirements. Calls to their references indicate a high level of satisfaction and their quoted fee is the lowest of the 4 firms. Judi is here if anyone has any questions.

COUNCILWOMAN GALVIN: After reviewing their proposal, I just have one question, which of the references did you contact by phone, Judi?

MRS. KEHOE: Specifically which references?

COUNCILWOMAN GALVIN: Yes.

MRS. KEHOE: I contacted Joseph Masoriello, the Comptroller for the City of Troy and Casey and Lubbe has been doing their audits since 1985 and all of his comments were very positive on them. Mr. Patrick Arigosa, who is the Treasurer for the Village of Scotia -- Casey and Lubbe has been their auditors since 1986 -- also very good comments in terms of disruption of staff, knowledge of... minimal disruption of the staff, knowledge of the governmental arena, responsiveness to the requests throughout the year. All very favorable comments and also I called Paul Savasta, the Comptroller of the Town of Niskayuna who had similar positive comments. So, everything checked out across the Board.

COUNCILWOMAN GALVIN: In terms of those references, how did they come in with respect to their proposals and budgeted estimates of costs.

MRS. KEHOE: That was one of my concerns that we might receive a lower bid in the initial year and then increase the cost dramatically. I specifically asked each of the references I called and they said that was not a problem with Casey and Lubbe. And, they were willing... if we did not like a particular quote that they gave you prior to the start of the year's audit, you could negotiate it with them. But, the increases had been fair.

SUPERVISOR RINGLER: Other questions? There were none. Like to offer a motion to approve that recommendation.

The motion was made by Ms. Galvin and seconded by Mr. Webster that the firm of Casey and Lubbe, PC, Albany, New York be and they hereby are selected as Town Auditors. The motion was passed by the following vote:

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

Remove  
from  
table  
discussion  
regarding  
mandatory  
recycling  
expansion

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SUPERVISOR RINGLER: Next I would entertain a motion to remove from the table discussion regarding mandatory recycling expansion.

The motion was made by Mrs. Fuller and seconded by Mr. Gunner to remove from a tabled status the discussion regarding mandatory recycling expansion. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin,

Mrs. Fuller.

Noes: None.

- - -

SUPERVISOR RINGLER: What did I say, did I say it right?

TOWN CLERK NEWKIRK: It was said correctly.

COUNCILWOMAN FULLER: You said it right, I am plowing through the paper that has to be recycled.

COUNCILMAN GUNNER: That one was the one that we had a report on 2 or 3 meetings ago. Yes, I think we should remove it.

SUPERVISOR RINGLER: You looked at me and I did not know what I did wrong. Okay, couple of weeks ago, as you know, we had received a recommendation from the Superintendent of Highways that we now expand our mandatory recycling to include brown kraft paper bags, corrugated cardboard, magazines, catalogs, junk mail excluding window envelopes, office papers and high grade paper, plastics number 1 through 7. At that point in time, there was a great deal of confusion as to this requirement which the City of Albany was placing upon us, that they were no longer going to accept these items at the tipping floor and what the markets, supposedly, available in the area would be accepting. That confusion has been straightened out, as I understand it. Gregg is here someplace and I believe that he is recommending that we do now implement these additional items as of October 1, 1992.

There are a couple of other questions, one being regarding the 2 contracts that were proposed. There were still some discussions that we have to clarify with the City. I met with the City together with Gregg and Bruce yesterday, we wanted to add some language to the Kruger Contract which provides us an out in this particular contract because as it is right now, we would be tied into what the Planning Unit did and that was one of the major concerns of our attorneys when we looked at it. I have submitted proposed language to the City and my understanding is... and they are going to go to Kruger and I believe that it is going to be acceptable to them. In the mean time, even without the contracts, these markets are available and I think we should go ahead with the mandatory recycling.

COUNCILWOMAN GALVIN: As a business owner who has a hauler who does not seem to understand two separate trash bins, one labeled regular trash and the other recycle -- could somebody try speaking to the haulers to get them to pick up the recycle material from business owners?

SUPERVISOR RINGLER: Are you talking about current recyclables.

COUNCILWOMAN GALVIN: Yes, current.

SUPERVISOR RINGLER: That should be referred to Sharon and Sharon will contact them expeditiously.

COUNCILWOMAN GALVIN: A friendly kick would be helpful.

MRS. FISHER: I will get on it, I will make a phone call.

COUNCILWOMAN GALVIN: We have called frequently and have gotten nowhere.

MRS. FISHER: Okay.

COUNCILWOMAN GALVIN: Pick up about once a month.

SUPERVISOR RINGLER: One of the things that the haulers are going to be required to get their plans in as to how they are going to do this. We are putting a flier together that will go out to the general public telling them...

SUPERINTENDENT SAGENDORPH: Yes, hopefully it will reach the general public. We would like to implement this on October 1st. Hopefully

the flier will reach the residents and businesses by October 1st, if not we will get publicity within the new media.

SUPERVISOR RINGLER: But, in any event, it is going to take time as it did the last time. It is going to take a lot of kicks, as you have suggested, to get everybody on board but the one thing is, our residents don't seem to need a real kick. They have been more than cooperative and recycling has been working within the Town of Bethlehem. So, we are very... we recommend that we do go ahead this and that hopefully by the next meeting I will have these revised contracts on for us to enter into an agreement. What the contracts do is not tie us into specifically requiring our haulers to go to these particular vendors but what it will allow them to... what it does require us to do is to send anything we collect -- which is the Rupert Road facility -- but it also allows the haulers to come in under our permit which will reduce their cost. Currently to go to Kruger -- and correct me if I am wrong everybody that has been involved in these negotiations -- if you just walk off the street, it is \$45.00 per ton. If you come in under our plan and you have it separated, it is \$25.00 per ton and then you also would share in 1/2 of whatever they sell it for on top of that which would reduce the amount. So, it is the haulers advantage that we get a contract in place and hopefully they will pass this on to the consumer. But... so, we are working on that. Any questions or comments? Entertain a motion to authorize the Superintendent of Highways to begin mandatory recycling on these additional items as of October 1st.

Authorize expansion of mandatory recycling beginning Oct. 1, 1992

The motion was made by Mrs. Fuller and seconded by Mr. Webster that the Superintendent of Highways be and he is hereby authorized to begin mandatory recycling on the additional items as of October 1st. The motion was passed by the following vote:

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

Discussion surplus property from Federal Gov. at Job Corps

SUPERVISOR RINGLER: Next I would like to consider a proposal that Jeff Lipnicky has drawn up for me to authorize application for a grant to obtain surplus property from the Federal Government at the Job Corps. located on Route 144, Selkirk. The Board... I discussed with brought previously what has been happening here but just for the general public and everyone that is in the room -- I do not know how long ago, maybe it is a year and a half ago, I received word that the Federal Government in their attempt to reduce their deficit wanted to start selling surplus lands. They wanted to sell a portion of the Job Corps. property and put it on the open market for anyone to purchase and to use. We were very concerned about that at that point in time because one of the reasons the Job Corps. has been a good neighbor in our community is that there is substantial buffering around this particular facility and there is enough land for the students to expand on without going onto individual property owners property.

In addition to that, one of the things, you know, the Hudson River Greenway Council has been encouraging is protection of lands that are currently undeveloped along the Hudson River and to keep them in that state if at all possible. We fought back and forth with them trying to (1) tell them not to sell the land and leave it in the hands of the Job Corps. -- which they did not go for -- and then we asked them if they would give a grant to the Town of Bethlehem to use it for park purposes. They initially declined to do that saying they could grant this only as a drug... for drug rehab facilities or homeless housing or something along those lines. They did offer to sell it to the Town of Bethlehem for \$950,000. and the Town Board... I didn't even want to suggest that we do that. But, we did continue fighting with them on this and I with the assistance of Congressman McNulty's office, the General Service Administration changed their mind and said that we could apply to have this land granted to the Town for park purposes. We in our view and the staffs and our recommendation to the Board is that we are not looking for another real active park, we have the Henry Hudson Park already, we have the Elm Avenue Park and so forth but the idea would be to ask for this land to be used as

passive recreation with nature trails and so forth on the property and protect it in the condition that it is basically in and it is a very beautiful piece of property with a lake on it and so forth.

I have been in contact with the National Park Service and they sent me the necessary applications for us to apply for this land. My sense is that they are going to give it to us from conversations I have had, if the Board is so inclined. Jeff has put together a proposal to meet the requirements in the application and the Board would have to authorize a resolution, authorizing the Supervisor to make the application. Are there any questions of the Board?

COUNCILWOMAN GALVIN: Yes. I have a few. First of all, Jeff, being specific about the proposal that you put together. Starting with page 8, 4, subdivision d on that page of sub paragraph 8, provides for biennial reports to be prepared during... setting forth the use made of the property during the preceding two year period and submitted to the appropriate regional office. Who is going to be responsible for the preparation of those reports?

SUPERVISOR RINGLER: That would be designated...

MR. LIPNICKY: That would be up to the Supervisor.

SUPERVISOR RINGLER: Right, by me and with all due respect to my Director of Parks and Recreation, I believe that would fall within his bailiwick.

COUNCILWOMAN GALVIN: Would there be any substantial increase in cost or need for additional help to produce that type of a report.

SUPERVISOR RINGLER: My sense would be not.

COUNCILWOMAN GALVIN: Turning to page B31, there is a reference to additional factors. There are 4 items that are listed there referring to standard form 118B, identifying various things in the vicinity especially wells and the likelihood for a requirement for an easement for the use of the wells, who would be involved in the use of such an easement? Are we talking about an easement to Job Corps. or...?

MR. LIPNICKY: You have to understand that at this point in time, okay, that there is not a completed survey of this property. General Services Administration is currently preparing a survey of the property. It was referenced in the materials that were sent to us that there were wells located in that area of the property where the swamp is. My understanding is that those wells were for the Job Corps. site and the structures on the Job Corps. site. I would assume that the Department of Labor would be looking for an easement in order to maintain those wells, although I believe it is served by public water now, isn't it Bruce.

MR. SECOR: Yes.

COUNCILWOMAN GALVIN: That's what I was questioning, the issue of the Department of Labor looking for easements for the wells. What purpose would they be looking to use the wells for?

MR. LIPNICKY: I have no idea. Again, that was noted in the property report that was put together by GSA.

COUNCILWOMAN GALVIN: I would like some more information on that. On the second item, there is a discrepancy in the survey relating to the northern boundary and access rights for adjacent land owners which apparently is not specified at this time. I would want to know what that access rights of surrounding property and what type of a survey discrepancy existed. Have you gotten any additional information on that, Jeff, at this time?

MR. LIPNICKY: No, again the survey is not complete.

COUNCILWOMAN GALVIN: Going down to the next one, the right to the use of docks along the river being reserved to Job Corps property.

Are those docks which would be abutting the property that would be used by the Town for the purposes of Parks and Rec.?

MR. LIPNICKY: Well, the dock is in disrepair, I mean it is probably, from what I can tell, it is probably not on the property to begin with.

COUNCILWOMAN GALVIN: I think that is something we have to know because this one large very potential liability issue connected with a dock, especially a dock in disrepair and that we know is in disrepair before we even look at the property.

Next item is the power line, telephone line running through the Job Corps. property but it is not referenced and it is not on the 118B -- is that strictly determined by visual inspection of the property or is that through any type of reported instrument.

MR. LIPNICKY: What was sent to us along with this were full surveys of the property, okay, the property consists... the materials we got consisted of property descriptions for about 8 different properties, okay, that went into this whole parcel. In reading through those, I couldn't find any type of reference to any easement, utility purposes along that side of the property. It doesn't necessarily mean that it doesn't exist. At some point in time, the Town is probably going to have to do a title search and things of that nature for the property but you know, right now, we do not even have the basic thing -- which is the survey of it.

COUNCILWOMAN GALVIN: You are reading right into my next question.

MR. LIPNICKY: It didn't make sense for use to go out and survey the property when GSA was in the process of doing it.

COUNCILWOMAN GALVIN: That is my next question, who is going to pay for the survey and who is going to pay for the cost of this title work that you are referring to, preparation of easements, correction of any title problems, all of the potential things because I notice in the estimated budget there -- on page B40 -- phase 1, 1993 you show a proposal of \$500 per design plan, gain access for entrance road and stack out trails. I did not see any budgeting for title work, correction of title problems, preparation of easements.

MR. LIPNICKY: That is correct. The application did not ask for estimates of that. What it asked for was an estimate of development of the property. To answer the first question, my reading of the materials that were sent to us and my reading of the conditions that are contained in Section A would be that we would be responsible for all costs of property transfer, any taxes that have to be paid in connection with that, any title work that has to be done in connection with that, etc.

COUNCILWOMAN GALVIN: What is your estimate of how much that would be?

MR. LIPNICKY: I have no idea. I bought property once in my life. Bernie might have an answer.

COUNCILWOMAN GALVIN: Where would your proposal...

SUPERVISOR RINGLER: The Town Attorney would do this.

COUNCILWOMAN GALVIN: Where would your proposal have that money coming from in the present budget?

MR. LIPNICKY: We did not consider that, we were asked to fill out an application for the property.

SUPERVISOR RINGLER: Let me just... he is filling out the application. We will have to come up with anything like that, either the Town Attorney will have to do or I will have to make a recommendation for contingency. The point is, we are getting... you know, we are applying for land that they say is worth close to one million dollars that they are willing to give to us and I think that, you know, it is a good deal. If we have to come up with a couple thousand dollars to do that, I think it is in our interest to do it.

COUNCILWOMAN GALVIN: We are talking about a survey for a parcel of land that size, we are talking about a hell of a lot more than a couple of thousand dollars. That is why I would like to know what the...

SUPERVISOR RINGLER: They are doing the survey now and there is nothing in here indicating that they are going to charge us for the survey.

MR. LIPNICKY: No, what is in there is a statement that relates to the Federal Government GSA will cooperate to whatever extent it can in providing the Town information, however, if there are legal questions that the Town has, I am sure GSA will not spend the money to look into it. It would be the responsibility of the Town to do so.

SUPERVISOR RINGLER: All this is doing is authorizing us to make the application, we haven't accepted yet.

COUNCILWOMAN GALVIN: I understand, but I have some more questions too. On page B32 there is a reference to property ingress and egress, indicates that there is a necessity to obtain a curb cut permit from DOT. Two questions on that, first of all, how much would that cost us to pursue and secondly, what would be the timing estimate for obtaining such curb cut permit.

MR. LIPNICKY: Bruce, do you have any idea.

MR. SECOR: There is no, DOT doesn't charge us for curb cuts.

COUNCILWOMAN GALVIN: But, we will have to provide survey information and the like, traffic survey too.

MR. SECOR: We would have to provide... no, we would just provide them -- again, if it is a major park entrance it might be different but from the activities that has been described here, I can't imagine this a major obstacle.

MR. LIPNICKY: It is a parking lot for about 15 vehicles.

MR. SECOR: I don't see that as a major obstacle.

COUNCILWOMAN GALVIN: Going to page B38, there is further reference to no access to be used for the river for either swimming or boating and the same thing for lake access. Again, I go back to my question about docks. I would want some additional information on the location of the docks, the ownership of the docks, and the liability for the docks and their usage.

Going to page B39, there is a reference to estimated development costs of \$35,800. under sub-heading B, schedule of development and I was... I had a question about that because over on page B40, there is total approximate costs matching up with the 35-8 but underneath that there is a further reference to \$50,000. Is that an additional \$50,000. or would that be a total of \$50,000?

MR. LIPNICKY: The recommendation of what is in here, and what is being proposed to the Federal Government is the development of the park in 4 phases, which include basically trail construction, signage and a parking lot. Phase 5 is listed under there as an option which the Town may or may not do but right now the \$50,000. would probably be a little bit more than that even to do the rest rooms at this point in time because the nearest sewer is about a mile away from the site. By the time, if the Town in the future decides to do this, at some point in the future, sewer might be available by the site at that point in time and the cost could be a lot less. That is merely listed as an option that something the Town may or may not wish to do in the future.

COUNCILWOMAN GALVIN: Going to page C1, which is the proposed draft of the resolution, the last 3 lines on the page refer to authorizing the payment of any and all sums necessary on account of the purchase price thereof or fees or costs incurred in connection with the transfer. Again, my concern goes back to if we authorize the application for the property, how much are we authorizing with those

3 little lines. I would like a dollar amount attached to that and it appears that we do not have that tonight.

Some general questions, has anybody made a study of the property or examined it for toxic or hazardous waste?

MR. LIPNICKY: The only way I can answer that at this point in time, is to say that there was a report that was in GSA's report that referred to the fact that there "no disposal of hazardous waste on the site". How they made that determination and the extent the study that went into making that determination, I can't answer at this time.

COUNCILWOMAN GALVIN: Do you know whether or not GSA would be willing to give us a guarantee on that statement and a hold harmless as to any future environmental actions that might be commenced against the Town as the user because as a user, we would be responsible and I do not know what has been put on that property either by Job Corps or by anybody else in the past. It is a large liability if it is found there.

ATTORNEY KAPLOWITZ: Sheila, don't you think they would be reluctant to give you the property if you asked them for a hold harmless agreement?

COUNCILWOMAN GALVIN: If they have made the representation in their original proposal, I don't see why they would have a problem with it. If they have made that statement...

ATTORNEY KAPLOWITZ: If I was going to give you a gift of a million dollars worth of property and you said give a hold harmless agreement, I might tell you I will sell the property and keep the million dollars. That is my only comment.

COUNCILWOMAN GALVIN: My concern is we only have a statement which... and we haven't even seen it but according to what Jeff has reported to us, that they say there is nothing there. If they have made a study, why won't they stand by their study.

ATTORNEY KAPLOWITZ: They are still giving you the property and you are asking them to give you something more and that is a hold harmless agreement. It is a lot to ask for. I am not saying you shouldn't investigate it further, I think we should but I think you are asking for an awful lot when you are asking them to do that also.

COUNCILWOMAN GALVIN: Bernie, we are really not asking them for very much because if there was environmental litigation over a dump site on the property, as a prior owner, they would be brought in anyway under all of their CIRCLA, under navigation act plans.

ATTORNEY KAPLOWITZ: But, you are still asking them to protect you and that is a lot to ask for from somebody, I think. It is not something to argue about, we can check into it further. I was just making a point, I think it is a lot to ask them from somebody who is going to give you the property. Which, if it is true, they claim it is worth one million dollars, somewhere along the line they are going to say -- listen don't do us any favors, we will sell it, why give it to you. I think maybe that the Board ought to consider some of those things in the whole general picture. That is something to be determined.

COUNCILWOMAN GALVIN: It is just having some familiarity with the extensive cost factor of defending an environmental piece of litigation. It would be reassuring if they'd at least stand by what they have told Jeff.

COUNCILMAN GUNNER: Was there any historical record in our own archives that you were familiar with, Jeff, any kind of industry that was down there at any time?

ATTORNEY KAPLOWITZ: The property was a seminary for many years before Job Corps but I don't know about before that.

COUNCILMAN GUNNER: Well, down by the river there were a lot of different industrial things that took place in that area.

MR. LIPNICKY: We definitely happened at one time, the lower portion of the site was mined for gravel at one time. Beyond that, I haven't done any historical research on the property.

COUNCILMAN GUNNER: That may help answer Sheila's questions, that is the only reason why I asked.

MR. LIPNICKY: Basically, what goes along with the report on the property is there is a property report that GSA puts together and you know, basically what the report says is this report is in accordance with the Federal real property regulations, etc. and there are 2 paragraphs in this -- and again, this is all it says, it does not say how it was determined and whatever but it says -- this property in its present condition is not dangerous or hazardous to the public health and safety, EG toxic waste contamination, military ordinance and explosive waste or debris. This property is in compliance with 40CFR761, polychlorinated biphenals, manufacturing processing, distribution in commerce and use prohibitions. As it relates to PCB use, storage handling and disposal on this property as follows: There are no polychlorinated biphenals on or associated with the property being excess. This property contains no asbestos materials, this property is not located on an Indian reservation. That is the extent of what... the information we have.

COUNCILWOMAN GALVIN: I think it would be helpful if the Board had a copy of that to look at because if it is in compliance with 40CFR, they shouldn't have any problem in giving us a written guarantee as part of an agreement. If they have done the study.

SUPERVISOR RINGLER: I don't know. You get into the legal area that I am not that familiar with but I don't quite frankly want to loose this piece of property. I guess the question comes up, you raise a lot of questions, do you have a problem with authorizing us going ahead at least with the application. We haven't accepted anything.

COUNCILWOMAN GALVIN: I have a problem if we are adopting the resolution authorizing application with the open ended payment of any and all sums necessary on account of the purchase price thereof or fees and costs incurred in connection with the transfer, without knowing that I am talking about.

SUPERVISOR RINGLER: We do not get involved in those fees until we actually decide that we are going to do a transfer and I can come back and tell you what they are at that point in time, can I not?

COUNCILWOMAN GALVIN: Well, the problem is this is what we authorize in the application to the property.

SUPERVISOR RINGLER: Yes. Authorize me to do that but if I am still saying I will come back to the Board and ask final permission, naturally, before we spend any monies. I guess my concern is, they have been... they want the application process to go forward. They are anxious to get rid of this land and I don't want to loose it.

COUNCILWOMAN GALVIN: Well, see, part of what that includes, gives me a problem with some of what Jeff was indicating earlier. One of the things that specifically I included as one of our costs is the cost for a survey. Survey, title search, recording, blah, blah, blah. Recording nobody really cares about, you are talking about minuscule amounts in that but when you are talking about survey and title searches, it could become rather expensive. I don't have a problem if we have a cap on it.

SUPERVISOR RINGLER: How expensive, Sheila?

COUNCILWOMAN GALVIN: On a 70 acre parcel, you could be paying \$10,000 easy, without breathing hard.

COUNCILMAN GUNNER: Jeff, was there... you said there were how many pieces of property they put together on this.

MR. LIPNICKY: Well, the whole site consists of 6... 7 parcels I believe it was. This particular site here, if my recollection suits me right from my reading of the property descriptions, consisted of 3

of the parcels, I believe. Now, I don't know exactly where the southern boundary is because that is one of the things that was negotiated between GSA and Department of Labor or Job Corps in this particular case but the survey GSA was putting together should be completed pretty soon. Right now, I don't have a copy of that.

COUNCILMAN WEBSTER: We will get a copy of the GSA survey?

MR. LIPNICKY: Yes.

COUNCILMAN WEBSTER: Won't that be satisfactory?

COUNCILWOMAN GALVIN: It may be one line, it may be all the lines -- I don't know what they are talking about.

MR. LIPNICKY: It is a survey of the property in its entirety that is to be excess, which would be this whole parcel.

COUNCILMAN WEBSTER: If we authorize this resolution we still have a point where we can back out of the whole proposition, can we not?

SUPERVISOR RINGLER: Yes.

COUNCILMAN WEBSTER: And, obviously if we don't sign this, it is not going to go forward.

SUPERVISOR RINGLER: Correct.

COUNCILMAN WEBSTER: The choice is pretty limited.

COUNCILWOMAN FULLER: It is an application for a grant, we don't have to accept it.

SUPERVISOR RINGLER: Exactly. If we do accept it, we do have to pick up those costs but when we accept it at that point in time, we make that decision.

COUNCILWOMAN FULLER: That is up to further discussion.

SUPERVISOR RINGLER: I would really like to move forward with it to be honest with you. This is two weeks behind when I told them I was going to give it to them before. They are anxious to have this in actually mid-August and I told them we would probably not get to it until this meeting and they gave us an extension, the Park Service in Philadelphia.

COUNCILMAN GUNNER: Sheila, if the answer to those questions, I sense a reluctance. I just would like to know why?

COUNCILWOMAN GALVIN: The language of the resolution. The language of the resolution bothers me because it seems to... I understand Ken will come back to us and discuss costs and discuss the matter but if we proceed with the resolution and the language that is incorporated in that resolution, we are making application to secure the transfer of the property. I am not clear that we are talking about backing out of it after we act on this resolution when you read the last paragraph on that page because the Town has legal authority, is willing and it is a position to assume immediate care and maintenance of the property and, it goes on from there -- and perform any and all acts and things which may be necessary to carry out the foregoing resolution including the preparing and making and filing of plans, blah, blah and expending of money. I don't see it as being a two way street. I see it as once we make the application, we have made the application, the language of this resolution stands. Why don't you take a look at that, Charlie, it is on C1.

SUPERVISOR RINGLER: Where is our attorney.

COUNCILWOMAN FULLER: Where is Bernie, has he looked at this?

COUNCILWOMAN GALVIN: I spoke to him before the meeting and he hadn't. At least that is what he indicated to me.

SUPERVISOR RINGLER: Counselor, this resolution, is this going to bind us to take this property.

ATTORNEY KAPLOWITZ: No, you can always withdraw the application up to the time it is accepted. Once it is accepted, like any contract, you would have a contract. But, you can withdraw it any time up til it is accepted, if you change your mind or whatever. If you make the application and the Federal Government accepts it, there is a good argument that there is a contract in existence and then I think you do not have the opportunity to perhaps change your mind.

SUPERVISOR RINGLER: Say that again.

ATTORNEY KAPLOWITZ: It is like a simple contract, an offer and acceptance, you are offering to take the property by making the application but you do not have anything going and binding until they accept it. If they accept it and approve it, and say all right we are giving it to you, then it may be too late, then it is a different ball game.

SUPERVISOR RINGLER: So, based upon Sheila's comments, concerns, as our Town Attorney, would you recommend that we go ahead and apply for this or have all these issues resolved before hand?

ATTORNEY KAPLOWITZ: Promised me you would never put me on the spot.

SUPERVISOR RINGLER: That is what we pay you for.

COUNCILWOMAN FULLER: As Town Attorney, you are on the spot for your response.

ATTORNEY KAPLOWITZ: Based upon what it normally takes the Federal Government, the time it takes them to move, I wouldn't be terribly concerned about making out an application but I think the points that Sheila raised should be investigated and, you know, make a decision before too long. But, a few months time is not going to mean anything as far as the Federal Government is concerned, I wouldn't think but I can't guarantee that certainly.

SUPERVISOR RINGLER: So, are you recommending that it would be in order for us to go ahead and make this application.

ATTORNEY KAPLOWITZ: I guess so.

SUPERVISOR RINGLER: Okay.

COUNCILWOMAN FULLER: I guess so?

ATTORNEY KAPLOWITZ: Yes, if it makes you feel better, Sheila, yes.

COUNCILWOMAN FULLER: I would like to hear an opinion straight forward answer.

ATTORNEY KAPLOWITZ: Well, it is not my job to recommend to you but I do not have a particular problem with it if you decide to make the application from a legal perspective.

COUNCILMAN GUNNER: I was just going to follow-up...

COUNCILWOMAN FULLER: On getting the questions answered.

COUNCILMAN GUNNER: Getting the questions answered and what is the time limit.

ATTORNEY KAPLOWITZ: I would assume Jeff, wouldn't you.

MR. LIPNICKY: Most of these are more legal questions than they are planning questions, so I am not sure that I can answer most of them.

ATTORNEY KAPLOWITZ: Well, a lot of them are questions you do not know the answers to, you are going to have to pass to them, I suppose.

COUNCILMAN WEBSTER: When do you expect a survey?

MR. LIPNICKY: I don't know, I don't have an answer. You know, again, it is when GSA finishes the survey, we will have it. What I was told is, that it may wind up crossing in the mail when we send this to them. Then again, who knows, it may not.

ATTORNEY KAPLOWITZ: You've never had any discussion about who pays for the survey?

MR. LIPNICKY: Who pays for the survey?

ATTORNEY KAPLOWITZ: You haven't had any discussion with GSA about it.

MR. LIPNICKY: GSA is doing the survey. We don't have to pay for the survey. What I am saying is that if you are not satisfied with what they have done and you want a title search and you want things over and above what they have done, the Town has to pay for it, which seems reasonable to me.

ATTORNEY KAPLOWITZ: I would think so.

MR. LIPNICKY: For a million dollar piece of property.

ATTORNEY KAPLOWITZ: The reason I mention the survey is, as a general rule, they are going to have to have a survey done to prepare a deed. They are not going to be able to prepare a deed for that land to give it to you in the first place without a survey and that ordinarily would be done at their expense. I don't think anybody would expect us to pay for it. The other expenses I agree with you if you decide you want a title search or anything you should have one because you are not going to know what you are getting other wise or be sure there aren't any liens on it or anything else. It certainly would be... I would anticipate would be done at the Town's expense.

COUNCILWOMAN GALVIN: Bernie, in reading over the proposal, I am not clear that they are not expecting us to prepare the deed. That is not spelled out, at least in my reading of this.

ATTORNEY KAPLOWITZ: Traditionally, the seller prepares it in this area. The United States Government, who knows, but in any closing in Albany County, for instance, the seller prepares a deed.

COUNCILWOMAN GALVIN: That is part of what raised the red flags in reading this.

SUPERVISOR RINGLER: Mr. Flanigan, you have a question?

MR. FLANIGAN: Yes, I would just like to speak to the point that there is someone down there doing some surveying.

SUPERVISOR RINGLER: We know that.

MR. FLANIGAN: No question about that because we have had questions raised.

MR. AUSTIN: I have seen them there.

MR. LIPNICKY: There are stakes out there, so, they have been out there and already done it and right now they are in the process of preparing it. But, I would be inclined to agree with Sheila's interpretation, that if there are costs involved in things above the survey that it is probably us that is going to wind up paying for it, from my reading of what is...

SUPERVISOR RINGLER: And, if it comes out that we have to spend \$10,000. to get a million dollar piece of property...

MR. LIPNICKY: You can't, that is the question, this is a million dollar piece of property, is it worth \$10,000.

ATTORNEY KAPLOWITZ: Well, that is something the 5 of you have to decide without the help of the Town Attorney.

SUPERVISOR RINGLER: Right. We know what we have to do.

COUNCILMAN GUNNER: I guess my concern was there was... I didn't hear any real clear answers to some of the other questions about hazardous wastes although -- what you finally read before was a little bit... was much more definite so, I would be more concerned if we bought the poke and found the pig in after we owned it and I don't know how you go about trying to resolve that but I certainly think that having the property, I would have to agree would be great for the Town and great for the Greenway and etc., etc. Even Cuomo might back us on that one.

ATTORNEY KAPLOWITZ: There are several ways you can approach it, Charlie. One would be to ask for a hold harmless agreement, my only point was I doubt very much that they would give you one. You can ask and try but more practical, more realistic would be to ask them for an affirmative statement that they did not deposit any hazardous waste and they are not aware of any during the time that they owned it. That something they might be willing to give you and that is of some value.

SUPERVISOR RINGLER: They have done that, haven't they?

COUNCILMAN WEBSTER: They basically have done that.

ATTORNEY KAPLOWITZ: Again, I don't know... you have to try, you don't know what they are going to do. If you were in a buy/sell situation, you would negotiate all these things but it is not a great position to be in.

COUNCILMAN GUNNER: Wasn't that basically the information you read.

MR. LIPNICKY: What I read came from a report that was done from GSA, it is called Report of Excess Real Property, okay and in getting rid of the property, the Federal Government has to comply or GSA has to comply with certain requirements and you know, they have to look is there historic value on the property and things of that nature. And, one of the things they apparently have to look at also is whether there is any hazardous waste on the property. All I am saying is that it could have been somebody sitting in his... I don't know if it was somebody sitting in their office just saying off the top of their head, there is no hazardous waste here or if there was really any study of it. I don't have an answer.

COUNCILWOMAN GALVIN: That is the question I have.

COUNCILMAN GUNNER: Well, once they put it in the document, aren't they responsible for that statement whether...?

MR. LIPNICKY: Yes, but it doesn't clue me into how much real investigation went into it, if any.

COUNCILMAN GUNNER: Well, I don't even know that when I bought my different properties over the years.

COUNCILMAN WEBSTER: How do you know.

MR. LIPNICKY: No, of course not, I mean.

COUNCILWOMAN GALVIN: That is one of the reasons that I suggested a hold harmless or some form of a guarantee would be to assure that they would be bound by it. And, if it had been done by a paper pusher behind a desk without any site investigation that we might find that out rather quickly if there is any hesitation in giving either a hold harmless or other form of guarantee.

ATTORNEY KAPLOWITZ: I think you have to make a decision, you can ask for the hold harmless but let's assume they say no, we are not going to give you a hold harmless. Do you want this property or don't you if they are not going to give you a hold harmless? Is it worth it to the Town to take the chance, how big is the risk, that kind of stuff. That's a decision you have to make.

MR. LIPNICKY: I mean, you know, there are ques.... when we took North Bethlehem parkland or South Bethlehem parkland, I mean, did we look into see if there were any toxic waste on the site? The South Bethlehem park lies near an industrial area, it would seem to me that

there might be some reasonable possibility that it exists there as opposed to this property which lies away from any industrial area along the river and really has only been used for farming and some mining.

ATTORNEY KAPLOWITZ: Well, we are all more cognizant of the hazardous waste problems than we were in those days and certainly you want to be careful but I mean, the basic decision still is, do you want it. You know, I have to say and there are no reporters left in the room, if I offered you a million dollars worth of property and you asked me...

SUPERVISOR RINGLER: Yes there is.

ATTORNEY KAPLOWITZ: Well, there is. All right. And, you asked me for a hold harmless agreement, I would say forget it, I will sell... why should I be left with liability, I am giving you a gift of a million dollars worth of property and you want me to assume the liability for the hazardous waste. And, I am not saying you shouldn't ask but you can try. I am being very practical. I think that is a lot to ask of them.

COUNCILWOMAN GALVIN: Excuse me, Bernie, I can understand that in anything except in the hazardous waste field where because they were a previous owner and the chain of property they are held in for liability regardless under Circla and under the navigation act.

ATTORNEY KAPLOWITZ: I understand that.

COUNCILWOMAN GALVIN: They are held in regardless so they are not giving away anything, they are just protecting us.

ATTORNEY KAPLOWITZ: You can try, you can ask and see what kind of response you get. I would rather sell my property for the million dollars and not give you the hold harmless agreement, I suppose. But, maybe I am wrong, that is why you ask and see what happens. If they say yes, there is no problem. If they say no, then you have to make a decision, do you want the property badly enough to take the risk. Maybe it pays to conduct our own investigation. I am not sure who does that sort of thing but maybe we could investigate it ourselves and try to make a determination -- is there anything there?

SUPERVISOR RINGLER: Or perhaps the information is already available.

ATTORNEY KAPLOWITZ: You have to look into it.

SUPERVISOR RINGLER: Exactly.

COUNCILMAN GUNNER: That was what I was getting at -- how many pieces of property that this goes back to. We haven't done any archival studies of the 3 properties that this is made up of, right?

MR. LIPNICKY: Well, I am not so sure how much information you are going to be able to find anyway, to be perfectly honest, going through past records in Town.

COUNCILMAN GUNNER: How about down the County?

MR. LIPNICKY: Or the County. I mean, what's the County going to have?

ATTORNEY KAPLOWITZ: Well, there is nothing there except the Job Corps, the Seminary facilities, I think, right? I haven't been there in years.

MR. LIPNICKY: Right, you know, just walking the property and looking at the property, I can also tell you at one point in time there were orchards on the property, at one point in time at least somebody started a tree farm on the property. Whether or not they farmed it for a long time, I have no idea. But, there certainly Christmas tree farm at one point in time there. But, beyond that I don't know how much you are going to be able to find, if anything.

COUNCILWOMAN GALVIN: Just two points, in talking to Fred, I understand that there was a little bit of misunderstanding in terms of why I was concerned about a hold harmless when the Federal Government would be held in because they were in the chain of ownership anyway, the whole point would be the excessive cost of defense and any environmental litigation would be to pick up and cover the cost of defense and normally in most insurance policies, environmental litigation is a specific exclusion as Don can speak to. It is a very specific exclusion and even cost of defense frequently isn't covered or at least they give you a hard time about it. That is why I would be interested in seeing some form of protection and one of my big concerns is since this does about Job Corps, we do not know what Job Corps has specifically put on there either.

SUPERVISOR RINGLER: If we can't get a hold harmless, do you think we should turn this down?

COUNCILWOMAN GALVIN: I want to see what we could get. Will they stand by their statement. Will they give us, at the very least, some form of guarantee as to the reliability of their statement.

COUNCILMAN GUNNER: Bernie, wasn't that what you were speaking to about an affirmative statement?

ATTORNEY KAPLOWITZ: Yes, you could ask for that.

COUNCILWOMAN GALVIN: I would like to start...

ATTORNEY KAPLOWITZ: I think that is more realistic.

COUNCILWOMAN GALVIN: I would like to start with the hold harmless to at least get cost of defense covered in the event there is any future environmental litigation.

COUNCILMAN WEBSTER: That is our exposure, cost of defense should a litigation ever occur.

ATTORNEY KAPLOWITZ: The exposure is considerably more than that.

COUNCILMAN WEBSTER: Well, could be but...

ATTORNEY KAPLOWITZ: If toxic waste was found, just the fact that you are the owner, you are in the pool so to speak. You do not have to be the one who put it there. So, there is a lot more exposure -- cost of defense is a tremendous exposure but there is also a lot more to it than that.

COUNCILWOMAN GALVIN: But, with the Federal Government being our direct predecessor in the chain of title, we would have a very good shot at them for a starter.

ATTORNEY KAPLOWITZ: They can afford to pay it better than we can.

COUNCILWOMAN GALVIN: But... that is it, the big issue is getting us a hold harmless to protect us.

SUPERVISOR RINGLER: Can we start the application process and request this hold harmless at the same time, concurrently?

ATTORNEY KAPLOWITZ: Sure, you can do it any way you want it.

SUPERVISOR RINGLER: Do you have a problem with that Sheila?

COUNCILWOMAN GALVIN: I don't have a problem with doing it that way and I would also like to have some sort of an understanding on limitation of costs.

SUPERVISOR RINGLER: Well, that will be limited by the fact I have to come back here. I mean, you know, I am not going to spend it without your authority so, what I would like to do then if the Board is in agreement is start the application process and pass this resolution but also send a covering letter with it asking as part of this would

they give us a hold harmless guarantee on toxic... whatever, you know ask one of the attorneys for the language that you are looking for.

COUNCILMAN GUNNER: I think that we went an extra step after that.

SUPERVISOR RINGLER: Or a guarantee.

COUNCILMAN GUNNER: An affirmative statement to what they...

ATTORNEY KAPLOWITZ: Well, first ask for the hold harmless.

COUNCILMAN GUNNER: Well, yes I would say so, but you should be aware of if they call you.

COUNCILMAN WEBSTER: So you can site the allegations in the letter.

SUPERVISOR RINGLER: Okay.

COUNCILWOMAN GALVIN: And, also pursuing obtaining answers to the questions that have been raised.

SUPERVISOR RINGLER: Right, they will have to be done before we accept it in any event.

Authorize Supervisor to sign application re: lands of Job Corps and hold harmless agreement re: toxic waste situation which may exist

The motion was made by Mrs. Fuller and seconded by Mr. Gunner that the Supervisor be and he hereby is authorized to sign the application in regard to the lands of the Job Corps, with request for a hold harmless agreement or an affirmative statement in regard to toxic waste situations that may exist on the lands located on the east side of Route 144, Selkirk and a request for answers to questions raised previously. The motion was passed by the following vote:

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

SUPERVISOR RINGLER: Thank you.

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Dumping Permit Peter Frueh

SUPERVISOR RINGLER: Next I have a recommendation from Department of Public Works for dumping permit for Peter Frueh. This is a renewal. Where is John, John's not here?

TOWN CLERK NEWKIRK: Yes, he just walked out.

SUPERVISOR RINGLER: Okay. There is conditions that have been placed on by Engineering Department. John, Peter Frueh is a renewal?

MR. FLANIGAN: Yes, it is.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that the dumping permit renewal for Peter Frueh, be and it hereby is approved for one year period with conditions as stated. The motion was passed by the following vote:

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

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Dumping Permit Frank Zeronda

SUPERVISOR RINGLER: Next I have a recommendation from Department of Public Works for a dumping permit for Mr. Frank Zeronda.

COUNCILWOMAN GALVIN: I have a question, is this about the property that we were just talking about?

SUPERVISOR RINGLER: No, it is across the street.

MR. FLANIGAN: It is across the street and this is a renewal also.

The motion was made by Mrs. Fuller and seconded by Mr. Gunner that the dumping permit for Mr. Frank Zeronda be and it hereby is renewed

for one year with conditions. The motion was passed by the following vote:

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

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SUPERVISOR RINGLER: Next a request from Mr. Secor, Commissioner of Public Works, to hold a public hearing for grievance day for the 1993 Sewer Tax Rolls, recommending that this be held October 14, 1992 at 7:30 p.m.

Set Public  
Hearing  
Grievance  
Day for  
1993 Sewer  
Tax Rolls

COUNCILMAN GUNNER: Tell me about that one, Bruce.

MR. SECOR: It is required, we do it every year. There is a grievance day each year for the tax rolls.

COUNCILMAN GUNNER: Sewer tax rolls.

MR. SECOR: Yes.

COUNCILMAN GUNNER: We get great numbers?

ATTORNEY KAPLOWITZ: Don't know that we have ever had anybody, have we?

COUNCILMAN GUNNER: Okay.

ATTORNEY KAPLOWITZ: Fifteen years that I know of, I don't remember I think I've seen anybody, Charlie.

The following resolution was offered for acceptance by Ms. Galvin and seconded by Mrs. Fuller:

WHEREAS, 1993 assessment rolls have been prepared for the Bethlehem Sewer District and it is necessary to hold a public hearing with reference thereto,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hold a public hearing with reference thereto, at 7:30 p.m. on the 14th day of October 1992 at the Town Hall, and

BE IT FURTHER RESOLVED, that the Town Clerk be and she hereby is authorized and directed to public a notice of such hearing in THE SPOTLIGHT, a newspaper published in Albany County and having a circulation within the Town of Bethlehem, on the September 30, 1992.

The foregoing resolution was presented for adoption by Ms. Galvin, seconded by Mrs. Fuller and was duly adopted by the following vote:

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

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SUPERVISOR RINGLER: Is there anything that anyone else would like to bring to the attention of the Board this evening? There was none.

COUNCILMAN GUNNER: I think I would like to have an Executive Session about litigation.

Executive  
Session

SUPERVISOR RINGLER: Okay.

The motion was made by Mr. Gunner and seconded by Ms. Galvin to hold an Executive Session to discuss litigation. The motion was passed by the following vote:

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

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SUPERVISOR RINGLER: Entertain a motion to adjourn.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to adjourn the regular Town Board meeting at 9:17 p.m. The motion was passed by the following vote:

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

*Kathleen A. Newkirk*  
Town Clerk

NO FORMAL ACTION WAS TAKEN AT THE EXECUTIVE SESSION.