

TOWN BOARD
FEBRUARY 24, 1993

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

PRESENT: Kenneth J. Ringler, Supervisor
M. Sheila Galvin, Councilwoman
Charles Gunner, Councilman
Bernard Kaplowitz, Esq., Town Attorney
Catherine T. Picarazzi, Deputy Town Clerk

ABSENT: Frederick C. Webster, Councilman
Sheila Fuller, Councilwoman

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SUPERVISOR RINGLER: Good evening, I would like to welcome everybody to a regular meeting of the Bethlehem Town Board. There are no public hearings this evening but as with past practice, if anyone has any questions regarding any item on the agenda, if you raise your hand when the Board completes the discussion, we will try to answer them for you. And at the end of the meeting anyone who would like to make any comments to the Board may do so.

The first item on the agenda is a request from Karen Pellettier, Director of Senior Services for permission for Caroline Wirth, Outreach, to attend a one day symposium on Elder Care issues on February 26, 1993 at Albany with the registration of \$25. paid.

Seminar
Elder Care
Senior
Citizens
Services

The motion was made by Ms. Galvin and seconded by Mr. Gunner that Caroline Wirth, Outreach, be and she hereby is authorized to attend the one day symposium on Elder Care Issues on February 26, 1993 at Albany, NY with registration fee paid. The motion was passed by the following vote:

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

Accept
Resignation
Board of
Appeals
Member
Robin Reed

SUPERVISOR RINGLER: Next I would like to accept the resignation of Robin Reed as a Member of the Board of Appeals effective April 1, 1993.

The motion was made by Ms. Galvin to accept the resignation of Robin Reed as a Member of the Board of Appeals with regret. The motion was seconded by Mr. Gunner and passed by the following vote:

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

Acknowledge
Receipt
Annual
Franchise Fee
Mid-Hudson
Cablevision

SUPERVISOR RINGLER: Next I would like to acknowledge receipt of the Annual Franchise Fee for Mid-Hudson Cablevision, Inc. for 1992.

COUNCILWOMAN GALVIN: I have one question on that. When I read that second paragraph it was very confusing -- a payment of \$88.77 amounts to 3% of \$2,958.88 which represents the total monthly revenue. Is that the annual revenue or the monthly revenue? I couldn't tell when I looked at the...

SUPERVISOR RINGLER: That is the annual. We only have one street in the Town, I believe, that has this cable company.

COUNCILWOMAN GALVIN: So that is a typo on the monthly.

SUPERVISOR RINGLER: Yes, total monthly is what I believe it means. We only get this one once a year.

COUNCILWOMAN GALVIN: So it would be the total annual revenue.

SUPERVISOR RINGLER: Yes.

COUNCILWOMAN GALVIN: Could we verify that just for the record?

SUPERVISOR RINGLER: Yes, sure. Send them a letter on that okay?

DEPUTY CLERK PICARAZZI: Yes.

 SUPERVISOR RINGLER: Next I have a request from John Fenzl,
 Department of Public Works, for acceptance of deeds for the Weisheit
 Subdivision in Selkirk.

Accept Deeds
 Weisheit
 Subdivision

The motion was made by Mr. Gunner and seconded by Ms. Galvin to
 accept four (4) deeds for highway and easement purposes for the
 Weisheit Subdivision located on Weisheit Road, Selkirk. The motion
 was passed by the following vote:

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

 SUPERVISOR RINGLER: Next I have a request from Mr. Fenzl for
 acceptance of a drainage easement for 34 Winne Place in Glenmont,
 Karian four-unit dwelling.

Drainage
 Easement
 Karian
 Winne Place
 Glenmont

The motion was made by Ms. Galvin and seconded by Mr. Gunner to
 accept the drainage easement for 34 Winne Place, Glenmont, NY for the
 Karian four-unit dwelling. The motion was passed by the following
 vote:

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

 SUPERVISOR RINGLER: Next I have a request from Richard Webster,
 Deputy Comptroller, for permission to go to bid for Stock and
 Non-Stock Office Products. Could advertise on March 3rd.

Go To Bid
 Stock and
 Non Stock
 Office
 Products

The following resolution was offered by Ms. Galvin and seconded by
 Mr. Gunner:

WHEREAS, the Town desires to advertise for bids for Non-Stock
 and Stock Office Products for the period April 1, 1993 through
 September 30, 1993, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise
 for such bids in THE SPOTLIGHT issue on the 3rd day of March, 1992
 and that bids be received up to 2:00 and 2:15 p.m. respectively on
 the 15th day of March, 1992 at which time the bids will be publicly
 opened and read.

The resolution was adopted by the following vote:

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

 SUPERVISOR RINGLER: Next I would like to acknowledge receipt of the
 annual reports for the Town Justices for 1992.

Acknowledge
 Receipt
 Annual Reports
 Town Justices

SUPERVISOR RINGLER: Next I have received a recommendation from the Traffic Safety Committee for an increase in the speed limit to 45 mph for the Delmar Bypass extension. As you know, when that extension was put through, I had sent a memo to the Traffic Safety Committee asking them to look at that speed limit and consider raising it from the automatic 30 which is a result of the Town Law. As you know, it goes from 55 miles per hour on the Bypass, it would drop down to 30 and then back up to 35 on VanDyke Road. The Committee has studied it and is recommending that it be increased to 45 miles per hour for the Bypass Extension and that VanDyke stay at 35 miles per hour. We have to schedule a public hearing on that on March 24th at 7:30 p.m. if the Board was so inclined. Any questions? There were none.

Set Public
Hearing
Local law
No.3, 1993
speed limit
Delmar Bypass
Ext.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that a public hearing be scheduled for March 24, 1993 at 7:30 p.m. to consider Local Law No. 3 of 1993 to Amend the Code of the Town of Bethlehem to permit speed limit of 45 miles per hour on the Delmar Bypass Extension between Elm Avenue and VanDyke Road. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Webster, Mrs. Fuller.

Seasonal
Personnel
Parks &
Recreation
Dept.

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

The motion was made by Mr. Gunner and seconded by Ms. Galvin that the persons listed on the Memorandum from David Austin, Administrator of Parks & Recreation Department, dated February 24, 1993 be and they hereby are appointed. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Webster, Mrs. Fuller.

COUNCILWOMAN GALVIN: One quick question...

SUPERVISOR RINGLER: Gerry is a wrestling coach and will be working our youth wrestling program.

COUNCILWOMAN GALVIN: Okay, thank you.

SUPERVISOR RINGLER: Dave wrote me a little note. Dave is reading your mind, Sheila.

COUNCILWOMAN GALVIN: That is great, I won't complain.

COUNCILMAN GUNNER: Can I go back and ask a question on that speed limit thing?

SUPERVISOR RINGLER: Sure.

COUNCILMAN GUNNER: It is not related to the speed at all. Is that what the name of that street is going to be? Is that what we are going to leave it?

SUPERVISOR RINGLER: That is all it has been called. At some point we may want to consider a name but that is what it has been identified as, I guess, just because of where it is and people get accustomed to what it really does.

COUNCILMAN GUNNER: Okay.

SUPERVISOR RINGLER: Okay, next we have a recommendation from Mr. Sagendorph for award of bid for rental of heavy construction equipment after review of the bids. He makes the following recommendation:

Award Bid
Rental of
Heavy
Construction
Equipment

Item #1 to the Gail-Rail Contracting Company
Item #2 to ANJO Construction Company
Item #3 to ANJO
Items #4, 5 and 6 to Peter Frueh.

As you can see, there was a comment in reviewing the bid for item #2, tie bids rather for items 2 and 4. In reviewing the bid for Item #2, the machine quoted by Mr. Frueh more closely matches the specs for Item #1 than for Item #2. That item is therefore, awarded to ANJO Construction, who meets the specifications.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to award the bid for Rental of Heavy Construction Equipment as recommended by Highway Superintendent Sagendorph to the following firms as indicated:

Item #1 to the Gail-Rail Contracting Company, Glenmont, NY.
Item #2 to ANJO Construction Company, Latham, NY.
Item #3 to ANJO Construction Company, Latham, NY.
Items #4, 5 and 6 to Peter Frueh, Feura Bush, NY.

The motion was passed by the following vote:

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

SUPERVISOR RINGLER: Next I have a request from Mr. Sagendorph, Highway Superintendent, for approval of purchase of two three-quarter ton pickup trucks from State Contract.

Approve
Purchase of
Two 3/4 ton
Pick-up
Trucks
Highway Dept.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to approve the request of Highway Superintendent Sagendorph for the purchase of two three-quarter ton pickup trucks from the State Contract. The motion was passed by the following vote:

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

SUPERVISOR RINGLER: Next a recommendation from Mr. Secor, Commissioner of Public Works, for acceptance of one easement for the expansion of the water supply from Madonna Realty.

Easement
Expansion
of Water
Supply
Madonna Realty

The motion was made by Mr. Gunner and seconded by Ms. Galvin to approve the acceptance of one easement from Madonna Realty for property located on Dinmore Road, Selkirk in regard to the Expansion of the Water Supply. The motion was passed by the following vote:

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

SUPERVISOR RINGLER: Next item we are going to postpone. We need 3 votes to pass anything. In this particular case, the minutes of January 27, 1993, Miss Galvin was absent and could not vote on them. So, that will be put on our next agenda.

I would entertain a motion to conduct an executive session. Oh, I am sorry -- that got deleted somehow. Mr. Gunner has some comments he would like to make.

Executive
Session

Discussion
Cable Rates

COUNCILMAN GUNNER: I would like to make some comments about the cable tv thing. I have spoken with the Supervisor and our Cable TV Administrator and with people in the community and I just... after our meeting -- well, let me just read what I would like to say and let the chips fall where they may.

I was quite concerned regarding the cavalier attitude demonstrated by the answers forwarded by Mr. Charles Forma and Mr. George Smede representatives of Cablevision concerning senior citizen discounts who make under... who have an income under \$20,000. or are on Medicaid, as well as, anticipated rate raises that they refer to during the program. I am even more concerned about the letter which Cablevision forwarded to all Bethlehem subscribers which was dated February 19, 1993. That letter stated that they, Cablevision, will be offering a broadcast basic service beginning March 15, 1993. That will include channels 6, 10, 13, 17, 23 and 31, 31 being public access. The price for that is \$9.95 per month, keep that number in mind. The letter ended with a statement that they welcome our thoughts, comments and concerns and it should be noted that they only took this action of establishing this broadcast basic because of the new Congressional law that was passed in 1992. So, there were 2 other neighbors of ours who have had that at considerably lower rates, which I will tell you about in a moment, than they are offering it to us. It's... I guess, we will see that it is excessive as I go along because since deregulation in 1984, the Town of Bethlehem Cablevision Committee has exceeded inflation by more than 100 percent. I believe they are still charging excessive rates from what their representatives had to say at our last Board meeting on February 10th, more raises are coming.

In their, and I mean Cablevision, letter of February 19, 1993, it stated that they will offer broadcast basic for \$9.95, as I said, per month and will provide 6 channels -- 6, 10, 13, 17, 23 and 31. Strangely enough these are the same channels that many residents, if not most, can receive free without cablevision via use of rabbit ears, or other indoor/outdoor antennas. Granted there are some citizens in the Town who would not receive a clear signal without cable on some of the channels, depending on where their house is located or if they are in an apartment, where their apartment is located in the complex, there may be interference. Capital Cablevisison of Albany and New Channels of Troy have had that for years and are offering it for less than Cablevision with more channels. And, that seemed to be a big point for them. Capital Cablevision which serves Albany and at least part of Guilderland, charges only \$5.75 per month for basic broadcast and offers 10 channels. Those channels are 6, 10, 13, 15, 17, 22, 23, 25 and access. New Channels Cablevision of Troy offers 9 channels -- 6, 10, 13, 17, 9, 11, 23, 28 and public access for \$1.00 per month. Yes, I said \$1.00 per month.

The new cable bill law was passed by Congress in 1992, as I said, and it has given franchising Towns like Bethlehem greater power for rate regulation of basic broadcast tv if those rates are not competitive. A local franchising authority can obtain control over basic broadcast tv if it complies with the FCC regulations which will be laid out in the rules which I will talk about in a minute. The law would also return to local governments some of the power they once had over rates by allowing local governments or subscribers, and that is important -- local governments or subscribers where the prices for non-basic broadcast cablevision programs are also though, however, not regulated in any way -- I want you to realize that. That it only regulates broadcast basic and exercises some authority over the next tier up but for the premium channels it has no control under the present time.

If we wanted to challenge -- let's say, in our case it would be the family level, tier -- all we would have to do would be to prove that they not competitive. State our case to the FCC and a new rate -- if they agreed with us -- a new rate would be set and they would also make the company return any fees that were charged during that period that we are contesting. I should also note that it also appears that premium channels -- as I said, like HBO and Disney and Showtime, things of that nature -- are not controlled at all. Furthermore, the FCC is still in the process of formulating some specific rules that will interpret the new cable tv law that the Congress passed in 1992. Now, if it is like other laws, it is going to be interesting

to see how it really comes out, because once they pass a law and we think we have something, then they go to regulation and it comes out a little like, you know, like a horse giving birth to a cow -- it changes. It just doesn't seem to be right. So, we will have to wait to see how that comes out.

I should also tell you that a very small percentage of cable customers nationwide select basic broadcast. That information is from the cable tv companies, as far as I understand. This may be true if many of our cable providers are like Cablevision which provides Bethlehem. There are a great many number of peoples... numbers of people who never had the choice if there are a lot of outfits out there like Cablevision. We have never had the choice of that. And, incidentally, when I called New Channels and Capital Cable and Cablevision, our own company, and I told them I was interested in signing up, I would like know specifics they told me all about the family channel and the family plus or whatever corresponding name they have, never told me about the basic that was to be offered or has been offered for a long time by the others. And, only answered a question about it when I said well, isn't there something... I only need 6, 10, 13, maybe public access 17 -- would you have that? Oh yes, we have that. That... I almost fell off the chair when Troy told me it was \$1.00 per month. I said would you repeat that? \$1.00 a month.

So, perhaps if we did have more providers giving the basic broadcast at a very reasonable price, a fair price would be a better way of putting it, I think we expect that. It may become a viable alternative for more people, particularly those with limited income and particularly in these hard and difficult times and increase in taxes. People may be looking to save a few dollars here or there. Considering my a formentioned concerns, comments and opinions, I move that the Town of Bethlehem tv Cable Administrator, Mrs. Kehoe, prepare and send a letter to Cablevision on behalf of the Bethlehem Town Board that would include at least the following points:

That the proposed rate change for basic broadcast service is excessive and would not be competitive with neighboring community services in Albany and Troy and it should be mitigated!

Although we are very grateful that they offer senior citizens some help, it is not quite as helpful as it could or should be and now we are having a new level of programming that cable television is adding and that is broadcast cable which are the 6 channels I mentioned earlier.

I think that they can do better and they are going to have to change something because if they are going to offer it at all, they should also be offered for the broadcast basic which they are saying is \$9.95 is a fair price. So, what I am saying is that the rates for basic broadcast tv and family cablevision be reconsidered for Town citizens who are enrolled in the senior citizen tax abatement program and for those citizens who may be on SSI, Social Security Supplement or medical assistance... Medicaid assistance. And, this should be done without any direction as to how they can or should spend any of their other funds. And, that would all be once you are under one of those programs, you are living pretty much at a very bare level of existence particularly if you own your home and you are paying taxes in the community and things like that.

I say consider because it is not one of the negotiable items and as I said, we are grateful that they did it but they can improve on it and they will have to be doing something because they already offer it at 10% to some of the ones I mentioned. Now they have to consider doing it at the other levels.

And, then the last item is most important --

If no favorable action is forthcoming that we consider bringing our complaints forward to the FCC at the appropriate time for corrective action.

I say the appropriate time because right now they have not yet released their regulations and before we go forward with anything, we would want to know what the regulations are and make sure we are within them. It appears that we would be but I think we should wait until we are certain. Would you like me to repeat the motion?

SUPERVISOR RINGLER: I think we know it.

The motion was seconded by Ms. Galvin.

SUPERVISOR RINGLER: Discussion. I am in agreement with everything that is in your motion, as I said to you this afternoon. One of the comments I want to add is that this business of this new basic service that they are offering is what cable companies throughout the country are doing -- playing games with re-regulation. You know, they are coming up with a basic service that people don't need because they can get these channels -- unless they live in a part of the Town that may have some problems, technically -- they can get them just with a normal antenna and it appears that then this would be the only service that we as a locality would truly be able to regulate and so therefore, it really would have no effect because past statistics show -- as I mentioned to you today from the State Cable Commission -- that only 1 percent usually take this type of service because they don't need it. So, it is a way of getting around regulation and it is wrong and you are absolutely right. And, we should keep hounding on them because as we have said in the past, this is a monopoly out there and we have very limited control. It is going to be very interesting to see what the regulations really are. As you just said, Charlie, to see whether or not there is any meat in these regulations when they get done because the bill in its final form I think was watered down substantially -- you pointed something out to me that was in the Senate bill this afternoon that originally said that if a certain percentage only took the basic then the locality could control the next level where there were more people participating in it and that was taken out of the Senate bill.

So, we have to keep hounding and I completely agree with your motion and the second. Does anyone else have any comments they would like to add?

COUNCILWOMAN GALVIN: I concur with everything Charlie has said and we discussed it at length the other day and I think that Charlie research and efforts in ferreting out what the actual facts are should be commended.

SUPERVISOR RINGLER: Yes, good. All in favor?

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

Noes: None.

Absent: Mr. Webster, Mrs. Fuller.

Thank you, Charlie.

Executive
Session
Pending
Litigation
and Land
Acquisition

SUPERVISOR RINGLER: Next I would entertain a motion to conduct an executive session at the end of this meeting to discuss pending litigation and land acquisition.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to conduct an executive session following the regular Town Board meeting to discuss pending litigation and land acquisition. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Webster, Mrs. Fuller.

SUPERVISOR RINGLER: Is there anything else anyone would like to bring to the attention of the Board? Sherwood.

Mr. Davies: I would like to just commend the Board for taking this action. I think the raise, the increase in rates was predictable and pacifically it, it is a little discouraging to read in the paper that really the State and local representatives are really advocates of price increases. And that's actually what's said. And I think that ought to cease, because it's just supporting Cable TV companies to raise rates.

Secondly, 77 channels was required by this board and was required by the State, it's going cost about \$300.00 per subscriber to put that in, and we will have to pay for it. And I think this should have been thought of and I'm sure that I personally would be very satisfied with 33 channel and not 77. I can only look at them one at a time.

Thirdly, I would like to say I think the Board in due time and for the next budget should take off the books the 3% franchise fee that billed each customer. If you need to raise the money, raise it in the form of taxes. But let's not let them be a tax collecting agency for Town.

SUPERVISOR RINGLER: Would you prefer that they keep that? Because they are going to raise that anyway Sherwood.

MR. DAVIES: That's exactly the response we get. They are saying they will keep it.

SUPERVISOR RINGLER: You don't believe it. Sherwood do you believe that they are going to reduce their rates if we do that. You know them better than that. We don't trust them.

MR. DAVIES: Let me go on, I didn't intend to say this. In 1988, in 1986, Adams Russell sold that cable company. For a moderate \$16,050. per subscriber. Now that's a lot of money. When they raise the rates, it's not for service but to, it's the greed and it's going into these corporations. I don't think this was raised at all from the Town Board ... reviewed the recent sale of Cablevision. I think this is very important point. It's not service. But it's the greed.

SUPERVISOR RINGLER: I concur.

COUNCILMAN GUNNER: I would like to recommend to the Board members and to those that are absent, that they read Mr. Davies memo, actually it's what he gave as a report in the minutes of September 9th, which covers some of the points he just spoke of. And also, Mr. Smede's response which was dated September 22nd. I think that the, they would find it enlightening and it does give some credence, not to all of what he just said, but to much of it. A great deal...

SUPERVISOR RINGLER: Anything else? I will entertain a motion to adjourn.

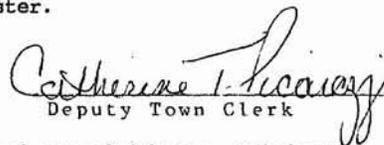
The motion to adjourn to Executive Session was made by Councilwoman Galvin and seconded by Councilman Gunner. The motion was passed by the following vote:

AYES: Mr. Ringler, Ms. Galvin, Mr. Gunner.
NOES: None
Absent: Mrs. Fuller and Mr. Webster.

EXECUTIVE SESSION

A motion was made by Mr. Gunner and seconded by Ms. Galvin to authorize the Supervisor to sign the Order of Consent for the Rupert Road landfill facility. The motion was passed by the following vote:

AYES: Mr. Ringler, Mr. Gunner and Ms. Galvin.
NOES: None.
ABSENT: Mr. Webster and Mrs. Fuller.


Deputy Town Clerk

Executive
Session
Authorize
Supervisor
To sign
Order of
Consent
Rupert Road
Landfill