

438

TOWN BOARD  
JULY 10, 1991

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

- PRESENT: Kenneth J. Ringler, Supervisor  
 Frederick C. Webster, Councilman  
 M. Sheila Galvin, Councilwoman  
 Charles Gunner, Councilman  
 Sheila Fuller, Councilwoman  
 Bernard Kaplowitz, Esq., Town Attorney  
 David Austin, Administrator, Parks & Recreation Dept.  
 Jeffrey Lipnicky, Town Planner  
 Bruce Secor, Commissioner of Public Works  
 Nancy Alexander, C.T. Male  
 Robert Longabaugh  
 Jean E. Kerr  
 Steber Kerr  
 Francis J. Higgins  
 Gordon Hamilton  
 Phyllis Hillinger  
 Colleen Brewer  
 Floyd Brewer  
 John F. Hayko, Esq.  
 Suzanne Capone  
 Ilaina Jonas, Times Union Representative  
 Susan Wheeler, The Spotlight Representative  
 Kathleen A. Newkirk, Deputy Town Clerk

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Supervisor Ringler called the meeting to order and welcomed everyone to a meeting of the Town Board. He said the first item on the agenda this evening is a public hearing to consider Local Law No. 3 of 1991 Revisions to Chapter 61 DOGS in the Town of Bethlehem in the Town Code. He asked the Deputy Town Clerk to read the call of the hearing.

NOTICE OF PUBLIC HEARING

Public Hearing -  
Local Law  
No. 3-1991  
Amend.Chapt.  
61 DOGS-  
Scoop  
Law

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, N.Y. will hold a public hearing on July 10, 1991 at 7:30 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, N.Y. to consider Local Law No. 3 of 1991 covering Revisions to Chapter 61, DOGS of the Town of Bethlehem Code.

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

By order of the Town Board  
Town of Bethlehem  
Carolyn M. Lyons, Town Clerk

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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 26 day of June, 1991.

/s/ Kathryn Olsen

Sworn to before me this  
28th day of June 1991.  
/s/ Bruce A. Neyerlin  
Notary Public, Albany County

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

CAROLYN M. LYONS, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on June 26, 1991, a Notice of Public Hearing, a copy of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Carolyn M. Lyons

Sworn to before me this  
26th day of June, 1991.  
/s/ Kathleen A. Newkirk  
Notary Public, Albany County

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The motion was made by Ms. Galvin and seconded by Mr. Webster to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting notices on the minutes of the Town Board. The motion was passed by the following vote:

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

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Supervisor Ringler said this is the second public hearing on this issue, indicating after the first hearing the Board listened to the comments of the public at that point in time and basically have recommended that there be some modifications made to the original proposal in an attempt from what the Board felt was to address the problem that was there without becoming over regulative. He said he would like the Deputy Town Clerk to read the Local Law, as she did at the last hearing but to briefly summarize, basically what is being said is that if you have a dog and the dog leaves droppings on anyone's private property or the Town right-of-way that people use as lawn as opposed to the entire Town right-of-way, sidewalks and roads, that it should be picked up. He further said other areas where it is not lawns, Town right-of-ways that are not lawns, you would not have to pick it up in those particular areas. He said this would be in the rural areas of Town and areas for example, in the center of Town, where there are farms and so forth that people walk and it is not part of anyone's lawn. The Deputy Town Clerk read the Local Law -- see page 439A following.

Supervisor Ringler thanked the Deputy Town Clerk. He said as with all of the public hearings, this will now be opened to any questions that anyone may have and following this anyone can speak in favor or opposition to this proposal. He asked if anyone had any questions at this point in time as to what is proposed. Mr. Robert Longabaugh, 47 Haskell Place, said he is really not clear about the difference between the previously proposed law and the now proposed law. He said he gathers it now has to do with... where before the public right-of-way -- he asked if someone could explain the difference. Supervisor Ringler said normally, along all roads the Town owns so much back from each road. Many of these roads, according to the Supervisor, do not have houses on them, do not have lawns on them and he said in those particular areas in the revision, the person would not have to pick up after the dog. He said on areas where there are lawns, the person would have to pick up after the dog. Mr. Longabaugh asked if this was the main difference. Councilman Gunner said this included public streets. Supervisor Ringler said public streets, Town streets and Town sidewalks are also included in this proposal, indicating the person would have to clean up after their dog.

Supervisor Ringler asked if anyone else had any question. Mrs. Jean Kerr said she has a question because the article in the paper said school grounds also and she was not sure this was correct. Supervisor Ringler said school grounds are private property basically, owned by the School District. If the School District determined that

they did not want people on their property doing it, according to Mr. Ringler, then they would be subject to this law.

Mrs. Felice Freeman spoke next, asking about areas like near the Kenholm pool where there is an open field, indicating there is a watering station in there. Supervisor Ringler said under this proposal they would not have to pick it up. He said that is Town right-of-way which you are talking about but it is not a part of a lawn.

Supervisor Ringler asked if there were any other questions. Mr. Bernard Harvith said he wanted to be sure that he heard Mr. Ringler correctly about the school issue property. He said the School Board's interpretation has always been that that is up to them. Supervisor Ringler said exactly and this would be the Town Board's interpretation also. Mr. Harvith said he had a couple other questions indicating it says Town of Bethlehem public roadways and sidewalks in 3H. He asked if this meant public roadways and sidewalks within the Town of Bethlehem, it means public roadways and sidewalks owned by the Town of Bethlehem. Supervisor Ringler indicated this was correct, the Town Board does not have the authority to do anything on State roads because we do not own that property. Mr. Harvith asked if this applied to County roads also. Supervisor Ringler indicated this was also correct. Mr. Harvith asked one other thing, indicating he may have said this last time -- he said since it was changed, a good faith attempt to clean up will be sufficient -- it says all he said, but asked if the Town Board really expects people to get down with a paper towel. Supervisor Ringler said he did not think so. Mr. Harvith asked if one of the devices will do. Supervisor Ringler said yes.

Supervisor Ringler asked if there were any other questions. Hearing none, Supervisor Ringler asked if anyone would like to speak in favor of this proposal. Mrs. Jean Kerr read the following letter for the Board's information:

73 Jordan Blvd.  
Delmar, NY 12054  
July 10, 1991

To Supervisor Kenneth Ringler and the members of the Town Board:

We attended the public hearing held on May 8, 1991 and heard the comments of people both for and against the proposed Dog Ordinance additions. When emotional and irrelevant objections are set aside, a few facts become clear. These are:

- 1) Everyone agrees that dogs are great pets.
- 2) Dog owners, not dogs, are ultimately responsible for the nuisances committed by dogs.
- 3) "Pooper Scooper" devices are commercially available and these devices make it possible for even the elderly to pick up their dog's droppings without bending to the ground.
- 4) In fairness to all citizens who mow and rake the town's right-of-way as well as their own property, dog owners should be required to clean up after their pets. Dog owners are not a privileged group who can freely ignore the inconvenience they cause to other people.
- 5) Disposition of a dog's fecal waste is not an insoluble problem. Solutions can be as simple as digging a deep hole on the dog owner's property and gradually filling it in by covering each day's waste with some of the soil dug out. The point is that this task is the responsibility of the dog owner, not of the neighbor who receives this unwelcome "donation".

On all levels of government, elected officials must sometimes deal with controversial issues. Too often our representatives at state and federal levels have attempted to side-step the hard questions, thereby producing the average citizen's generally cynical perception of government officials. You have demonstrated a responsible attitude toward the concerns of your citizen electorate on an issue which is going to upset some people no matter how it is decided. We thank you for your perseverance in working over the past two months on these additions to the Dog Ordinance. We urge you to add these revisions to the Town Dog Ordinance, thereby insuring that our town will again be a

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~XXXXX~~  
~~XXXX~~ of Bethlehem  
Town  
~~XXXXX~~

Local Law No. 3 of the year 19 91.

A local law Amending Chapter 61, DOGS of the Bethlehem Town Code  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~XXXXXX~~  
~~XXXX~~ of Bethlehem as follows:  
Town  
~~XXXXX~~

Section 1, Article I, Section 61-1 is hereby amended to read as follows:

The Town Board of the Town of Bethlehem finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs have created physical harm to persons, damage to property and have created other nuisances within the Town. The purpose of this Article is to protect the health, safety and well-being of persons and property by imposing restrictions on the keeping and running at large of dogs.

Section 2, Article I, Section 61-4 is hereby amended to add new definitions as follows:

FECAL MATTER - all feces, excrement, manure, dung or solid waste matter discharged by a dog.

Section 3, Article I, Section 61-5 is hereby amended to add a new subdivision (H) to read as follows:

H. Deposit any dropping or fecal matter on any private property, Town of Bethlehem public roadways and sidewalks or that portion of a front lawn owned by the Town and maintained by the landowner as a front lawn (without the consent of the owner). Such soiling action is declared to be a public nuisance.

Such soiling action shall be deemed prevented and not a violation of this Article if such persons shall immediately clean up all such fecal matter and droppings by causing same to be gathered in a suitable container and disposed of in a safe and sanitary manner.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

The provisions of this section shall not apply to guide dogs, hearing dogs or service dogs accompanying any person with a disability as defined in subdivision 21 of Section 292 of the Executive Law.

Section 4. This local law shall take effect sixty (60) days after filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 1991 of the ~~(County)(City)~~(Town)(Village) of Bethlehem was duly passed by the Town Board on July 10, 1991, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 19\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

*Kathleen A. Newkirk*  
Deputy  
Clerk of the County legislative body, ~~City, Town or Village~~ Clerk  
or officer designated by local legislative body

(Seal)

Date: July 11, 1991

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK  
COUNTY OF Albany

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

*Dennard Kopsiwitz*  
Signature  
Town Attorney  
Title

~~COUNTY~~  
~~City~~ of Bethlehem  
Town  
~~TOWN~~

Date: July 11, 1991

clean, sanitary and pleasant place in which to walk, bicycle, mow grass or rake leaves.

Respectfully,

/s/ Jean E. Kerr  
/s/ A. Steber Kerr

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Supervisor Ringler thanked Mrs. Kerr and asked if anyone else wished to speak in favor of this proposal. Mr. Frank Higgins, Sunset Drive next spoke saying the proposition is reasonable, it does not require the dog owner to go to extraordinary lengths, there is a need for this proposition -- we are in a dry spell now, there is no rain to wash away these animal feces that are not going down the storm drains -- and the cleaning up after the animal as this lady has related, there are devices available. He said the devices are relatively inexpensive and the disposition of the animal waste is relatively simple. He said this is a reasonable proposal and he said he moves for its adoption. He thanked the Board. Supervisor Ringler thanked Mr. Higgins.

Supervisor Ringler asked if anyone else wished to speak in favor of this proposal. Mr. Robert Longabaugh said he appeared the last time and spoke in favor of this and he said he wishes to commend the Board for an improved proposal. He said he thinks this really comes to the heart of the matter. He said he wanted to compliment the lady on a positively magnificent letter. Supervisor Ringler said he agreed. Mr. Longabaugh said it was said very nicely and he further said he would like to add that he finds that depositing your dog owner's deposits on someone else's lawn just unconscionable, uncouthness and so he urged the adoption of this proposal. He said one final point, he noticed attending last time, there were a couple of very good points made by the opposition about dogs being a man's best friend and how elderly people need a dog's companionship and they cannot just walk the dog and so on. He said he does not mind cleaning up after the lady down the street that cannot get out and the dog is important to her. He said he does think it would be better to fence the dog in and did not take the chance of the dog getting injured. He said he has grown to respect Mr. Harvith with his many years of service on the School Board. He said he noticed in his argument last time that this stuff does decompose eventually. However, he said, he did a little test. He said he had one spot on the lawn that he has mowed around for three weeks and it is not decomposing as fast as he would like it to. Mr. Longabaugh said this was the end of his comment.

Supervisor Ringler thanked Mr. Longabaugh and asked if anyone else wished to speak. Mrs. Phyllis Hillinger next spoke commending all of the Board. She said the first night when she came and answered some of the questions there was a lot of laughter in the room and she indicated the Board has taken a subject that could have been easily cast aside and dealt with it in a very responsible way. She said she thinks that as a Town, the Board can be very proud of how we are solving one of the current problems. She thanked the Board.

Supervisor Ringler thanked Mrs. Hillinger and asked if anyone else wished to speak in favor. Mrs. Felice Freeman next spoke saying she does not want to sound repetitious but she did want to say that this proposal is not a matter of dog owners as opposed to non-dog owners. She said when she had circulated the petition she had plenty of dog owners who were also in favor of people cleaning up after their own animals because many of these people clean up after their animal and they did not want to contend with their neighbor's animals fecal material. So, she said this proposal is not only for pet owners and non-pet owners, it is for bikers and the joggers and the children who want to play and just for the appearance of the community. She said as she had mentioned the last time, when you have visitors coming through your neighborhood and walking around it is very unpleasant for them to have to contend with the fecal material.

Mrs. Susan Backer spoke stating she lives on Lyons Avenue. She said she is a former owner who used to walk her dog and allow her to use other people's lawns. She said she is speaking in support of the law because it is a very civilized thing to do.

Supervisor Ringler thanked Mrs. Backer and asked if anyone else wished to speak in favor. He then asked if anyone would like to speak in opposition. Mr. Bernard Harvith said, yes, I guess I would like to. He said to please not write him down as in favor of unconscionable uncouthness but he thinks there is still a number of problems here. He said he has not heard from the Town as to what they really mean by sanitary disposal. He said he guesses as an environmentalist he would be concerned about a lot of more plastic bags going into the trash seeing as there is enough volume of solid waste as it is. He said he would see enough controversy about where there are going to be dumps or not going to be dumps. He said the dumps are going to be here, thousands of bags a year are not going to be very helpful. Secondly, he said the compromise does not solve the problem of a person like himself who would like the community left the way it is. He said his view is the leash law was the compromise that many of the residents choked very hard to put up with -- he said they put up with dogs running loose, dogs going with them as kids anywhere they wanted, stating you might tie them up during the high traffic hours but they choked hard. He said their dogs did not like being tied up -- stating his dog would love to run around the neighborhood and play with little kids all day. He said the little kids in the neighborhood would like that too. He said if there was no leash law he would probably let her do that in the off traffic hours even though there is some risk. Mr. Harvith said he thought this was the compromise and when this was discussed walking the dogs and using the Town right-of-way was what the Town told people. The people asked what was going to be done about the dogs, according to Mr. Harvith, the Town said you are going to have to walk them. He said people have now trained their dogs that way. He said he does not think he can retrain his dog in some other way. He said he does not agree that this is such a big problem. He said he walks a lot with his dog, without his dog and said he does not see large amounts of this material anywhere around Town. He said he does notice that the people here seem to be mainly from one neighborhood and he is told, because he asked, that most of the names on the petition are from one neighborhood. He said maybe there is one particular problem but it seems to him that something is being changed that has been all right for a couple hundred years because one neighborhood thinks they have a problem. He said he thinks this is too much. He said he noticed this does not deal with the cats. There is competent medical evidence, according to Mr. Harvith, that there is a health threat from the cats. He said he is unaware of any competent medical evidence that there is any health threat from the dogs. As he suggested last time, Mr. Harvith said he thinks it would be a reasonable compromise to ask people to keep the dog within 3, 4 or 5 feet of the street. As far as mowing the lawn goes, it takes two minutes to go out and rake, he said. He further said he does not think this is a great imposition. Personally, he said his problem is walking the dog is one of the most pleasant parts of the day, some days it is the only pleasant part it seems like. He said this way it will be a chore because you will have to watch the dog every minute. It is not always true that the dogs goes once, according to Mr. Harvith, on a walk and secondly, you do not have disposal baskets along the way as they do in the cities. He said even if you buy one of the tools and you scoop it up, he then has to carry it with him for another mile, mile and a half as opposed to being able to dump it some where. He said he guesses in terms of my having my life pleasantly the way he likes, this is just not acceptable at all. Other people have expressed themselves fairly strongly, he said, and he guesses he would define himself as emotional but rational. He said he regards this as another violation of his fundamental rights. He said he has lived here all of his life and he likes the Town the way it is. He further said if people do not like it the way it is, he said he does not know really that the community should be changed to satisfy them. This was the way it was when they moved in, the leash law compromise had already been made, according to Mr. Harvith, many of the residents had choked hard for this. He said this is like a second bite of the apple. He said he wanted to also say there are plenty of non-dog owners opposed. He said many people when he walks his dog, their children come running out of the house to pet the dog. He said last evening the dog was petted by 9 children in a course of a mile and three quarters. He said they will miss her if he has to take her someplace else. It seems to Mr. Harvith that this is not a good idea. He said if you absolutely, absolutely have to do it he guessed a little more time than 30 days would be good because people will be coming back in August and there

will be a problem. He said he does not know how long it takes the stores to order these things. He said he wanted to make one last plea to the Town Board and that he really asks the Board to really think about this perhaps most strongly, he is very big for kids and dogs. He thinks lots of time the dog may be the only thing a kid has going for them or think they have going for them if things are bad. He said if one time in ten years because a kid had a dog, they did not commit suicide, the kid did not get into drugs or get into any of the other crazy things that happen these days, that is a much bigger thing in his mind than a little bit of dog crap on people's lawns. He said the lawns have excrement there from all kinds of other creatures and if you think this really -- you should walk around in your bare feet, that is just not a good idea. He said he really asks you to think about kids. He said if we did anything in the Town, we probably should have dog adoption days to encourage kids to adopt dogs as long as there is not an allergy in the family. He said he really believes that a lot of people will not get dogs for their kids if you pass this just because it is going to be too much trouble. He said he is sorry to be in disagreement with other people but he said he guesses he feels at least as strongly as they feel and on the other side.

Supervisor Ringler said that is what the process is all about, as Mr. Harvith knows. Mr. Harvith said he thinks as a more general question here, he feels and it has been mentioned by a number of other people, and that is how homogenized, plasticized, cleaned up type community you are going to have. He said he thinks it is better if kids occasionally do step in something, that is a part of the process of growing up and you learn not to step in things. He said he worries a little if the kids are going to be raised in sort of zipped up plastic envelopes. He thanked the Board and said he appreciated their patience.

Supervisor Ringler thanked Mr. Harvith and asked if anyone else wished to speak in opposition. Hearing none, a motion was made by Ms. Galvin and seconded by Mr. Webster to close the public hearing at 7:30 p.m. The motion was passed by the following vote:

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

*Kathleen A. Newkirk*  
Deputy Town Clerk

444

Adopt Local  
Law No.3-1991  
Amending  
Chapter 61  
DOGS -  
Scooper  
Law

Supervisor Ringler asked the Board if they wished to discuss the previous public hearing or whether they would like more time. He stated basically the information is pretty similar to what was heard at the last hearing. Councilman Gunner said the one point Mr. Harvith made he thought had some validity, there is no great rush to do it and that they should consider the timing. Supervisor Ringler asked Mr. Gunner what his suggestion might be. Councilman Gunner asked Mr. Harvith what he might suggest, how many days, stating it is presently 30 days. Mr. Harvith said whatever it would take to let people get back from vacation and let the hardware stores order stuff. Supervisor Ringler said 60 days would make this effective right after Labor Day or shortly thereafter. Councilman Gunner agreed. Councilman Webster said it could be on the next agenda for action. Supervisor Ringler said action can be taken at this time and just change the effective date to 60 days from the date that it is filed with the Secretary of State, if that is what the Board wanted to do.

The motion was made by Mr. Webster and seconded by Mr. Ringler that Local Law No. 3 of 1991 be adopted with the change of effective date (60 days from the date of filing with the Secretary of State). 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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Rejection  
of Proposal  
from City  
of Albany  
Regarding  
Landfill  
Sites-  
ANSWERS

Supervisor Ringler said before the agenda is completed, Councilman Gunner requested permission to make a motion regarding these landfill proposals. Councilman Gunner said he moved that the Bethlehem Town Board reject the City of Albany's proposal for ANSWERS regional dump sites in the Town of Bethlehem as presented at the public hearings held by the City of Albany in the Town of Bethlehem on July 1 and 8, 1991. First, Councilman Gunner said this action would be congruent with the existing Bethlehem Town Code -- where we prohibit the importation of garbage -- second, it would be supportive of our Supervisor's comments, as well as many of our citizens -- Mr. Ringler gave a very good report at both meetings and said that we have had some very salient points on the issue and they should be recognized -- and third, it is critical of the method and presentation as to how the sites were selected -- it was not presented well to the public, in his opinion, nor did they clear up officially -- well, he said maybe they think officially, maybe satisfactorily would be better -- satisfactorily how they arrived at it and why. He said that is basically his motion. Ms. Galvin seconded the motion and Mr. Webster indicated that the entire Town Board should second the motion by the following vote:

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

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Councilman Webster noted further that he thinks it is an excellent motion, in concert with our thoughts and the Supervisor's speech. Mrs. Fuller concurred. Supervisor Ringler stated he did not disagree with anything that has been presented. He said he thinks the current proposal, which he has said very emphatically is unacceptable to the Town of Bethlehem and he appreciates the Board's support and he thinks we are going in the right direction. Councilman Webster said the Board does support him. Supervisor Ringler thanked Councilman Gunner.

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Accept  
Resignation  
Voting  
Machine  
Custodian

Supervisor Ringler said the next item on the agenda was to accept the resignation of Gregg Sagendorph as Voting Machine Custodian. He read the following letter:

July 2, 1991

Bethlehem Town Board  
445 Delaware Avenue  
Delmar, New York 12054

Dear Board Members:

I respectfully submit my resignation as Voting Machine Custodian for the Town of Bethlehem. I no longer will be able to hold this position since receiving the Republican nomination for Town Highway Superintendent in the upcoming November election.

The past seven years as Machine Custodian has proven to be a very rewarding experience and I have thoroughly enjoyed working with the many people involved in the election process.

Very truly yours,  
/s/ Gregg A. Sagendorph  
Voting Machine Custodian

- - -

A motion was made by Ms. Galvin and seconded by Mr. Webster that the resignation of Gregg A. Sagendorph as Voting Machine Custodian be accepted. 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 said the next item was a recommendation from the Supervisor for approval of appointment of Roger Griffiths, Glenmont, New York as Voting Machine Custodian effective immediately. He read the following letter:

MEMORANDUM

Appoint  
Voting  
Machine  
Custodian

TO: TOWN BOARD MEMBERS  
FROM: KENNETH J. RINGLER, JR.  
DATE: July 5, 1991  
SUBJECT: VOTING MACHINE CUSTODIAN

Due to the resignation of Gregg Sagendorph as Voting Machine Custodian, I am recommending to the Town Board that Mr. Roger Griffiths be appointed to this position.

Roger is an outstanding employee of the Town of Bethlehem and I am sure will do very well with these additional duties.

Any questions regarding this, please do not hesitate to contact me.

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The motion was made by Mr. Gunner and seconded by Ms. Galvin to appoint Roger Griffiths, Glenmont, New York as Voting Machine Custodian effective immediately. 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 said next was a request from Martin J. Cross, Superintendent of Highways, to dispose of three vehicles at auction, one each, Chevrolet pickup, Dodge Van and Dodge Diplomat.

The motion was made by Ms. Galvin and seconded by Mr. Webster that approval be given Superintendent of Highways, Martin J. Cross, to dispose of three (3) vehicles at auction -- 1972 Chevrolet Pickup, 1982 Dodge Van and 1989 Dodge Diplomat. The motion was passed by the following vote:

Approval  
Disposal of  
3 vehicles  
at auction-  
Highway  
Dept.

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

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Acceptance of Easement  
Bower Court-  
Alden Court

Following, according to Supervisor Ringler, is a request from Alan Riedel, Department of Public Works, for acceptance of a deed document from William W. Turner for an easement over a parcel of land which is the southern half of a paper street known as Bower Court, just west of Alden Court, pending approval of the Town Attorney.

On a motion made by Ms. Galvin and seconded by Mr. Gunner the easement document presented by William W. Turner for an easement over a parcel of land which is the southern half of a paper street known as Bower Court, just west of Alden Court, as approved by the Department of Public Works, Engineering Division, be and it hereby is accepted, pending approval of the Town Attorney, 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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Approval of Minutes  
June 12, 1991

Supervisor Ringler said the next item on the agenda is the approval of the Town Board minutes of June 12, 1991, distributed June 26, 1991. Councilman Webster had two corrections, stipulated to the Deputy Town Clerk. She noted these corrections will be made as requested. The motion was made by Mrs. Fuller and seconded by Ms. Galvin that the Town Board minutes of June 12, 1991 be approved with corrections. 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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Appointment of Seasonal Personnel - Parks & Recreation

Supervisor Ringler said following was a request from David Austin, Administrator, Parks & Recreation Department, for appointment of seasonal personnel.

Clerk Typist at a rate of \$4.55 per hour.

Katrin V. Wahlen  
6 Saybrook Drive  
Glenmont, NY 12077

Attendant at a rate of \$4.85 per hour.

Robert T. Newkirk  
178 Clapper Road  
Selkirk, NY 12158

Lifeguard at a rate of \$5.75 per hour.

Todd J. Turner 54 Darroch Road Delmar, NY 12054	Colin Izzard 103 Winne Road Delmar, NY 12054
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Recreation Instructor I at a rate of \$5.10 per hour.

Andrew P. Patrick  
114 Roweland Avenue  
Delmar, NY 12054

Recreation Instructor I at a rate of \$5.30 per hour.

Rima Woo  
490 Huron Road  
Delmar, NY 12054

Recreation Instructor I at a rate of \$4.70 per hour.

Andrew Sattinger  
491 Stratton Place  
Delmar, NY 12054

Recreation Instructor III at a rate of \$7.50 per hour.

Vaclav Sotola  
31 South Main Street  
Voorheesville, NY 12186

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A motion was made by Mrs. Fuller and seconded by Ms. Galvin that at the request of David Austin, Administrator of Parks & Recreation Department, the above-mentioned personnel be and they hereby are appointed to serve at the pleasure of the Town Board and that they be compensated at the rates mentioned above. 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 said the next item is a request from the Supervisor for approval of two (2) Voting Machine Custodians attendance at a training course for Voting Machine Custodians. Supervisor Ringler read the following memorandum:

Training  
Course -  
Voting  
Machine  
Custodians

MEMORANDUM

TO: TOWN BOARD MEMBERS  
FROM: KENNETH J. RINGLER, Jr.  
DATE: July 5, 1991  
SUBJECT: VOTING MACHINE CUSTODIAN TRAINING SCHOOL

With the resignation of Gregg Sagendorph as Voting Machine Custodian, it becomes necessary that we send our two custodians to a training course. There is a school on August 8 and 9, presented by the Voting Machine Services Center in Canandaigua, New York.

As you know, we do have a restriction on training, however, this is required training and I must recommend that the Town Board authorize two voting machine custodians to attend this course at a total cost of \$350.00.

I request your approval on this request. If you have any questions, please contact me.

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On a motion made by Ms. Galvin and seconded by Mr. Gunner to approve was given for attendance of two (2) Voting Machine Custodians at a training course for Voting Machine Custodians. 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 said next he would like to remove from the table and discuss further the Parkland Set-Aside/Payment-In-Lieu of pertaining to subdivisions. A motion was made by Ms. Galvin and seconded by Mr. Gunner to remove from the table and discuss the Parkland Set-Aside/Payment-In-Lieu. The motion was passed by the following vote:

Discussion  
Parkland  
Set-Aside/  
Payment-  
In-Lieu

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

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Supervisor Ringler indicated the Board the last time -- and it has been a good long time -- but there are a lot of things the Planning Department is working on as everyone knows. He said the Planning Department was asked by the Town Board to look further at this 10 percent set-aside or payment-in-lieu of and come back with some of the

findings. Deputy Town Planner, Ellen Kost, did an excellent job at doing this, according to Mr. Ringler, explaining that she is not with us this evening but Mr. Lipnicky is. Supervisor Ringler asked Mr. Lipnicky to please go through this and outline to the Board exactly what is contained in the information before the Board and what is recommended.

Mr. Lipnicky said in putting this thing together, as the Board knows from the previous memorandum, they outline various methods and various ways that other communities have gone about setting fees. Unfortunately, Mr. Lipnicky said, most of those communities set those fees arbitrarily. He said what the Planning Department wanted to do was to have a way of coming up with setting payment-in-lieu of fees and a land set-aside fee that actually were to the extent possible, related to the demand that was generated when you develop the land. Mr. Lipnicky said what was done was basically, they went back to 1987 and looked at land sales in the Town -- land sales and vacant parcels. He said they did this by breaking the parcels up into three different lot size categories, recognizing that the value of the land in different lot size categories is different. He said smaller parcels generally are already in subdivided parcels of land that have access to utilities, access to roadways, access to public water and sewer, etc. He said generally they have higher land values per acre or per square foot than large parcels in less developed areas of the Town which do not have access to similar services.

Mr. Lipnicky said to get back where he started, what they did was look at trying to come up with a set-aside formula that related to the actual density of a development. He said in the Town Board's packet, in the memorandum, what they did was a schedule for the recommended schedule for land set-aside at the time of land subdivision that has five different categories of land sizes. He said one is less than 1/3 lot per acre which translates into lot sizes of 3 acres or greater and what they recommended is land set-aside requirement of 1% of total parcel for any subdivision of land that involved lot sizes of 3 acres or more. The second category, according to Mr. Lipnicky, was 1/3 lot per acre to 1 lot per acre which translates into lot sizes of 1 acre to 3 acres and this category what they recommended was set-asides of 2.5% of the parcel be set-aside for parkland use. He further said the next category was 1.1 to 2 lots per acre which translates into lot sizes of 1/2 acre to 1 acre and the recommendation was for those lots that 5% of the land be set-aside for park land. The third category, he said, was 2.1 to 2.9 lots per acre which translates into lot sizes of 1/3 acre to 1/2 acre and the recommendation is 7.5% set-aside requirement and finally the last category is 3 lots per acre which translates into lots of 1/3 of an acre or less and the recommendation there is a 10% set-aside.

Mr. Lipnicky said if you go through this and you look at the average number of lots per acre or the lot size requirement, you will notice there is a proportional relationship here between the lot size with density and the requirement for the set-aside so that in essence, the schedule generally works out to a proportional land set-aside requirement in all of these classes. In other words, Mr. Lipnicky said, on a density type basis the requirement is really the same within all the classes. He said comparing this to the current lot size requirements in regard to the Interim Development Density Act that we passed about a year ago or a little bit more than a year ago actually, the "AAA" (which no land in the Town is zoned "AAA") is 35,000 sq. ft., lot sizes in the "AAA" if one went with the minimum lot size would fall into the 5% set-aside category. "AA" and "AR" zones, according to Mr. Lipnicky, which are 15,000 sq. ft. requirement would fall into the 7.5% set-aside category. Further Mr. Lipnicky said "A" and "AB" lands which are a 12,000 sq. ft. requirement would fall into the 10% set-aside category as would any subdivisions in commercial or industrial zones.

Mr. Lipnicky said in terms of a fee in lieu of land, as he previously stated, what they looked at was land values in the Town and tried to translate those land values in each of the different lot size categories into a fee requirement. He said as he previously said, what they found was that the value of land, the larger the parcel was less. In other words, he said, larger parcels had less value per sq. ft. of land area, than smaller parcels. He said what they did to arrive at

this fee, was basically what they had was a conversion of the land set-aside recommendation into a monetary or a value equivalent by looking at the average selling price per square foot. He said it is basically a simple formula but it is in the memorandum to arrive at that. Essentially, Mr. Lipnicky said what the recommendation is in terms of the fee, was that for lots of 3 acres or more there will be a \$280. requirement payment in lieu of fee for that; 1 acre to 3 acre lots \$600.; 1/4 to 1 acre \$850.; 1/3 to 1/2 acre \$1450.; and less than 1/3 acre \$2,500. He said this figure is per lot. In addition to subdivisions what they also did, according to Mr. Lipnicky, was take a look at site plan and potential requirements for set-aside and for payment in lieu of fees for site plan approvals on multi-family units and alike. What they did there, Mr. Lipnicky said, in regard to the set-aside requirement since the density there in multi-families is generally greater than 3 units per acre, what they did was recommend the same set-aside as is in the subdivision requirement for subdivisions where the density is greater than 3 units per acre -- that is 10% set-aside requirement. What they then tried to do, Mr. Lipnicky said, is tried to develop, again, a proportional fee requirement for multi-families that would be essentially, again, based upon this idea of demand generated. Mr. Lipnicky said in general, apartment units have less population per household than the single family homes so what they did was take the fee that was recommended, that went along with the 10% land set-aside requirement -- what they did was take that fee and proportionately converted it based upon average household size of single families versus average household size, apartment units for 1, 2, and 3 unit apartments, he said. The numbers that were used, according Mr. Lipnicky, on this were average household sized figures for essentially the mid-Atlantic states, which is available through the reference desk sited in the report. He further said when they went through this mathematical ratio formula, what they came out with was a payment in lieu of fee for 1 bedroom apartments of \$1,150. per unit; 2 bedroom apartments \$1600. per unit; and a 3 bedroom apartments \$2,385. per unit. Mr. Lipnicky said these fees, to some extent, they would suggest also be offset with credits. In one respect, some or many of the multi-families that are built in Town are built after the land has already been subdivided, he said. He further said in other words, somebody comes in with let's say a 50 acre parcel, will subdivide it into 10 different parcels, each parcel containing one apartment building with 5 units in it -- he comes in under the recommended payment in lieu of or land set-aside requirement in the proposed subdivision, that is proposed for the subdivision regulations, he would be paying the fee at the time he comes in to subdivide the parcel. Under what is being said here, also, Mr. Lipnicky said he would be required to pay a fee at the time he comes in for either site plan approval or building project approval or whatever the case may be to get approval to build these individual apartment buildings. Instead of hitting him twice with a fee at the time of the subdivision and also a fee at the time of site plan approval, Mr. Lipnicky said they are recommending is that he be given a full credit for the fee that he paid at the time of subdivision and have that apply to the fee that he would also be required at the time of site plan approval. In other words, Mr. Lipnicky said, someone would pay the fee of \$100. at the time of subdivision and at the time of site plan approval is required to pay a fee of \$200. -- actually on site plan approval that person would only pay a fee of \$100. because he has already paid the \$100. fee at the time of subdivision. Secondly, Mr. Lipnicky thinks a second credit should be given in terms of site plan approval for multi-families and that credit would apply for on-site facilities that are provided by the developer for residents of his project. He said in talking with Dave and from the experiences he has had with literature he has read, apartment units, again as previously stated, have generated a little less demand for public recreation facilities and secondly, if facilities are provided on site -- tennis courts, a pool, whatever the case may be -- that also lessens the demand on Town facilities also. He further said they are also suggesting that some credit be given for development of on-site facilities for the use of the apartment complex and then that amount be somewhere in the neighborhood of either 50% of the fee that would otherwise be required or alternatively 50% of the cost to the improvements that were actually made on the site whichever is less.

Mr. Lipnicky said this was basically a summary of what the Planning Board came up with in regard to their recommendations. He

said if there are any questions he would be happy to answer them. Supervisor Ringler asked if there were any questions. Councilman Gunner said he had several questions. Mr. Gunner said first of all he wanted to say it seemed like a very good report and in no way are his comments either for or against this at this time, but they are for his own clarity. First of all, Councilman Gunner said he sees this as an additional hidden tax because it will be passed on to the people who purchase the houses or the people living in the units. He further said he thinks this is just replacing the welcome stranger. It does not state that he is against it, Councilman Gunner said, at this point, just that it should be considered. The needs stated under intent, Mr. Gunner asked if that includes passive needs such as beautiful vistas and just plain green space if the Town should choose it. Mr. Lipnicky said yes, what they would suggest is that when the ordinance is drafted and there is another 8 criteria that is listed in there that the ordinance itself contain criteria to assist the Planning Board in making its determination as to whether to take land in terms of a set-aside or whether fee be taken instead of that. He said this should certainly be one thing that should be in there as criteria. He said he would not limit it only to land that is developable for park land purposes but if there is also something unique about a particular parcel of land, and the Town would not necessarily develop it for active recreation use, but could utilize it for open space or passive recreation, quiet passive -- that this also be included in the concept.

Councilman Gunner said he thought he was correct in saying location of the property or the parkland part does not have to specifically be near a development even though they made a sizeable contribution. He said it could be at a centralized area. Mr. Lipnicky said this is debatable. He said the Town law speaks in terms of neighborhood parks and from what he has seen, he does not think there is a clear definition as to what neighborhood means, however, he said he thinks there has to be some relationship in terms of location or there should be and perhaps Attorney Kaplowitz can shed more light on this than I, or perhaps Ms. Galvin can, in terms of what a court would say is acceptable in terms of proximity to an existing development. He said this is questionable. Supervisor Ringler said it seems that there was something prepared by Attorney Alessi when this was prepared originally and he would locate this and get copies to the Board. He said Attorney Alessi had prepared an opinion on that and Ms. Galvin concurred. Mr. Gunner said he sort of remembers that but he did not know what it was. Supervisor Ringler said he would look at this information. Mr. Lipnicky said the only thing he could say is that from communities that he knows of that do this or a lot of the communities that he knows of that do this, to them, they interpret neighborhood as town-wide. Supervisor Ringler said from the Town's perspective, we do have a plan that the Parks Department is working on that we do have regional parks. He further said if the Town ever does this, he thinks administrative the Board would set-up different areas that the funds coming in from there would be directed. Mr. Ringler noted as an example, North Bethlehem and South Bethlehem grow, we have additional funds to make improvements that are targeted for those particular parks. He said he further thinks this would make a lot of sense. There are parks in North Bethlehem, South Bethlehem, the Henry Hudson park, according to Mr. Ringler and right now the plan -- and of course, it could change as population grows -- but right now the recommendation is that the major facilities, our major pool complex is for a Town-wide facility at the Elm Avenue park, he thinks there is definitely justification for the Town to make capital improvements there for those Town-wide facilities as well. As he recalls -- and he is talking off the top of his head -- from former Supervisor Hendrick's opinion at that time, we are in pretty good shape with what we have done and as long as we keep continuing it. He said he would dig it out again and give it to you.

Mr. Lipnicky said one thing that he thinks he should make clear, is that the thing we do not want to do is to have a park in every neighborhood. Councilman Gunner concurred. Mr. Lipnicky said it would be impossible to maintain and the cost of that would be too much. Councilman Gunner said he just meant the region, if there was a large subdivision going in some place... I think -- if we get the answer. Mr. Lipnicky said he thinks one thing that you should bear in mind, too, is that as we proceed with the master plan, one of the things to

be done is talking to Dave and working with Dave, I think, to try to develop some general idea of potential locations for future parks. This is one thing, according to Mr. Lipnicky, that they will be looking into.

Councilman Gunner said he is just curious indicating maybe Attorney Kaplowitz could help out, stating he was sorry to put him on the spot here -- but he does not -- or maybe Ms. Galvin -- park land fee policies, they impact on recreation that is true, but new developers impact on education, impacts on roads, impacts on waste and that, what is the wisdom in the State of only passing recreation -- he said he has no objection to that whatsoever but... Mr. Austin stated it was top priority. Attorney Kaplowitz said it all depends on your prospective but the Guilderland case is the one not so long ago that went all the way up to the Court of Appeals and one of the big issues was off-site improvements with monies coming from general areas. But, Attorney Kaplowitz continued, there has been for a long time, specific statutory authority for park land recreation in the Town law. Supervisor Ringler said there are bills before the Legislature this year -- and he does not think they moved to be honest with everyone, with all the budget work that was on there -- there are other enabling legislation bills out there to provide impact fees in other areas. He further said this was being done to overcome the difficulty that Guilderland ran into. He further said he has said so many times, all these communities are testing it in the courts and we need enabling legislation for this as we do with the park lands. He said the Association of Towns presented some legislation this year and hopefully this will move along at some point in time. Attorney Kaplowitz said one of the reasons the Court of Appeals gave for denying it was the fact that the authority to do so ought to come from the Legislature not from the courts. But, Attorney Kaplowitz continued, there was a need some years ago, a sufficient need that the State Legislature felt they had to address and they did it specifically in relation to parking. He said that is the only area he is aware of where they have specifics statutory authority. Mr. Lipnicky said as the Supervisor has said, he was familiar also that there were some bills proposed in the Legislature for other types of impact fees too but he does not think were passed. Attorney Kaplowitz said a number of States have allowed it, that was Guilderland's hope, he thought. Councilman Gunner asked if they allowed them for a lot of other things, capital improvements. Attorney Kaplowitz said for off-site improvements. Supervisor Ringler said he thought California has impacts fees. Mr. Lipnicky said California, Florida, there are a number of States.

Councilman Gunner asked if someone else wished to ask some questions. Supervisor Ringler suggested Mr. Gunner continue. Mr. Gunner said if you go over to page 3 where it says location in terms of, all right, that is all right. He just wondered into what kind of a fund this fee will go and who will have control of that fund and let all the people know where it is spent. Mr. Lipnicky said he thinks this is something that is beyond our -- in terms of the Planning Department, legal capabilities to set these things up. However, he continued, more generally speaking, it would really be a trust fund that the funds in there could be dedicated only to the purchase or improvement of park sites in Town. And, he said as Supervisor Ringler said, if we are talking about the potential of designating different areas in Town, the potential could be for more than one trust fund or an accounting method. Mr. Lipnicky said they have not gotten to the point of working these things out and it is something they will have to work very closely with Attorney Kaplowitz about. Attorney Kaplowitz said it would have to be put in a special Capital Improvement account or something designated for park land or recreational use. Councilman Gunner said he has no problem with that, that he understands it will go for that. He said but, how is it controlled. Attorney Kaplowitz said the Town Board will control it. Councilman Gunner further asked if it would be passed along in the budget -- do the people know it is going to be given to a certain area -- how will the people of the community and the people in the area know how it is used. Attorney Kaplowitz said it would take a resolution of the Town Board to withdraw any money and you would have to specify the purpose for which it is going to be used. Councilman Gunner said this was okay. Supervisor Ringler said it is not something that he could just write a check on. Councilman Gunner said he was not saying that -- we could just pass it somewhere in the budget. Supervisor Ringler said it is not even involved in the

budget because it is not an appropriation. Councilman Gunner said that answers the question. Supervisor Ringler further explained any spending out of it would have to be done by resolution of the Board. Attorney Kaplowitz stated the law is very specific about that. Councilman Webster asked if it would be done at the time there is an appropriation for a purchase. Attorney Kaplowitz said sure. Supervisor Ringler said if Mr. Austin came in and said he wanted to build a new swimming pool in North Bethlehem, the Board would approve that and also approve that the expenditure come out of the Capital Improvement fund. Attorney Kaplowitz said this has been done before. He said years ago, the Town was salting away some money to be used eventually and that is money that was used for the Town Park now. Councilman Gunner asked if this would be done at an open public meeting. Supervisor Ringler said absolutely. Attorney Kaplowitz indicated there is no other way to do it.

Councilman Gunner said the next question was does this encourage greater density or discourage. He said he listened carefully but he could not really discern from what was said. Mr. Lipnicky said he seriously does not know that it does either. Unless the developer comes in with a proposal that is right on the boarder of one of the categories, according to Mr. Lipnicky -- if it is right on the boarder of one of the categories in terms of his lot sizes, he was sure he would be more inclined to go for the larger lot than a smaller lot in order to get less of a fee. But, Mr. Lipnicky continued, again, we have not done any intense study of that, so he could not tell the Board based upon factual information, it is just upon his gut feeling on it. He said he does not really think it is going to have a large effect on encouraging larger lots. Councilman Gunner asked if it would encourage PRDs over other development. Mr. Lipnicky said he does not, personally, again, unless it is right on the boarder, he does not think it would encourage either way because the developer is going to make up the cost in terms of selling the lot, selling the house. Councilman Gunner said he will make up the cost, no matter what in all probability. Mr. Lipnicky said this was correct.

Councilman Gunner said if you will forgive me, on page 6, he said he could be wrong and please correct him if he is in his interpretation -- you use the figure \$2500 and you cite in one place and you are comparing based on national averages against based on middle Atlantic region the averages -- he said he would like to think -- suspect that those two averages would be considerably different or at least different, in the first paragraph. Mr. Gunner said whether that affects the calculations or not he does not know, appears that it might. Mr. Lipnicky said he cannot answer that. He said Mrs. Kost had done the calculation and he would assume that the source that they have gives numbers by reason -- it would give a household average by region also, mid-Atlantic region -- so he cannot fathom that you would use the national average. Supervisor Ringler said and then divide the regional average. Mr. Lipnicky said he would have to believe that you would remain consistent. Supervisor Ringler said this is something to check. Councilman Gunner said yes, because you do here, right. Mr. Lipnicky said they can check that out. Councilman Gunner said check that out because maybe someplace in the mid-west would be completely different and North Dakota compared to the middle Atlantic region, upper middle part of the country could be considerably different. Mr. Lipnicky said just to add to that, you should note that those average numbers, those household averages, come from 1980 because 1990 data is not available. Mr. Gunner asked if he would have that available perhaps, well I do not know.... Mr. Lipnicky said he does not think it will be available by that time, it is going to be at least 1 year before that information, he would think will come out.

Councilman Gunner said his last question is on page 7, under administration, noting a separate trust fund which he understood, was explained here. He said it will not be used for operating expense but he asked if they will be used for the amortization of the data of construction of a facility as well or not. Mr. Lipnicky said there are a number of State Comptroller's opinions that we would have to look at to see whether or not something like that would be allowed. He said he would suspect that it probably would only be allowed if the facility was built initially with these type of funds. He said he does not know that. He said it would have to be checked out. Supervisor Ringler said his reaction is that he does not think you probably could do

that. Councilman Gunner said generally speaking, it costs almost as much in interest as it does to build the facility -- a very -- and when people vote on things, we always see the construction costs, we do not see the full cost and a lot of people do not realize that. Supervisor Ringler said the question would arise when we get these funds accrued, it is when improvements are made that we pay cash for out of this fund and then if not, this fund could be used maybe as a down payment but the other costs would have to be demonstrated and then there would be bonding like with anything else. He said that would be a total public process as well.

Councilman Gunner said he had no other questions and he said he is happy for the report though. Supervisor Ringler thanked Mr. Gunner and Councilwoman Galvin if she had any other questions. Ms. Galvin said since Councilman Gunner has very ably covered the whole report and 90% of her questions, she only had one. She said in the introductory statement and in the introductory remarks to the report, Mr. Lipnicky indicated that most towns go with the 10% without doing the formula method. She said she understands the reasoning why the formula method was done, but her question is how much additional administration within the Planning Board process would this involve to administer the whole concept of a formula of this type. Mr. Lipnicky said he did not think it would involve any, all it amounts to is just calculating the fee and that will take 5 minutes. He said he does not see that it would involve more administrative work. He further said the real administrative work is keeping track who paid the fee, at what point in time was the fee paid on this and that brings you back to the question of when the fee should be collected. He said if it is collected before filing of the map, it is the simplest administrative method or similarly before a site plan is stamped. He said it is the simplest administrative method. He further said it could be a large up front cost to a developer. Ms. Galvin said it could also change drastically through the planning process. Mr. Lipnicky said this is right, there are revisions to subdivision, revisions to site plans. Ms. Galvin said that was where her question was came, but you had discussed the different stages in the collection process for the fee and depending on how that was handled, we could be looking at doing a collection and a refund if there was a substantial variation. Mr. Lipnicky indicated this was correct. He said there is really two ways that one could do it. One is to get the money up front, according to Mr. Lipnicky, which again puts in some instance, will put some instances the burden on the developer, or one can collect it at the time of building permit approval which would be less of a burden on the developer but would certainly be difficult to keep track of and administer. So, that is something that Mr. Lipnicky guesses he does not have a strong recommendation on now, perhaps this should wait until after the public hearing when he is sure the developers will be coming out to speak. Supervisor Ringler said perhaps if we want to get them interested in this, the Board should say that -- at least draft it up initially -- saying that it is paid at time of filing of the final plat. Mr. Lipnicky said this would do it.

Supervisor Ringler asked if Ms. Galvin had any other questions. There were none. He then asked Mrs. Fuller if she had any questions. Mrs. Fuller said she had a question on the administration which has since been answered. Councilman Webster said it seems everyone is in concurrence since this was talked about last September and asked for Mr. Lipnicky and Dave to go back and come back with some recommendations. He said his only concern here is that he would suggest that we not even consider accepting land in lieu of because he would not like to see little parks spread all over. He said the only time he would like to see any credit given for anything other than a fee, would be as the Supervisor suggested, if the subdivision duplicates some of those facilities we have in the park which we feel are necessary such as a pool, tennis courts or something of this nature. He said credit should be given for nothing else, he feels. Supervisor Ringler said he thinks there should be the option on the land, stating this is his view. Councilman Webster said this could be made an option. Supervisor Ringler said he thinks one of the things talked about in the report is a recommendation in regard to a plan from our Director of Parks & Recreation Department as to that fitting into what he wants to do. He said then he thinks there are other situations and he thinks Councilman Gunner brought it up previously, that there might be some lands that are just very scenic and as a passive

recreation, without building any parks, just to leave that. It might be in the interest of the Town, according to Supervisor Ringler, to do that. A place where people could just access it without us having to maintain it, he said, in any form. Councilman Webster said it would be our option but not let the developer drop 3 acres on us that we have to continue to maintain for whatever. Mr. Lipnicky said the Planning Board has to make a determination as to whether it is acceptable or not. Councilman Webster said this would be acceptable, as long as the Town Board has the final word. Mr. Lipnicky said this was correct. He said the developer cannot elect to just donate it or not donate it, the Planning Board has to determine whether it is suitable as a park site. Supervisor Ringler said he thinks the criteria has to be written such, that the Planning Board is following the Town Board's guidance. He said he respects the Planning Board completely but the Town Board is the one who has to make the financial decisions and they should not be out there agreeing to have pocket parks when the Town Board does not necessarily concur with that. He said this language will have to be very carefully crafted so that there are some controls on there and that this be done within the confines of what the Board wants it to do.

Councilman Webster said he would like to see an ordinance drawn, brought to the Board and reviewed. Supervisor Ringler said this would be appropriate since this is still in the early stages. He said he thinks something should be drafted up and let the Board look at it in Local Law form.

Councilman Gunner said he has one more question, where you give credit for facilities that are held within the subdivision, like pools and tennis courts and things like that, is there any reason or should we consider credits for those who have developing senior housing or for those who are doing moderate to low income housing for Bethlehem residents. Mr. Lipnicky said he thinks this is one consideration. He further said there is a good aspect to this and there is a negative aspect to it. He said the negative aspect, of course, is that the highest fees are for the most density. He said if you are going to have or build affordable housing, it is usually at a higher density than a lower density and that would include senior citizen housing for example. He said what he has seen in the 3 or 3 1/2 years he has been here or whatever it is in Bethlehem, is that nobody has built "affordable housing" since he has been here. He said it is very large homes on very small lots, comparatively. Whether or not it becomes a discouragement to a type of housing that is not being built here really to begin with, may be a mute point, according to Mr. Lipnicky. He said mainly what he is leading to is that the Board may want to consider having some type of credit or lowering of fee or something like this or elimination of fee for something like senior citizen housing or for so called "affordable housing" for Town residents. He said this is something they have not explored thoroughly but they will think about it a little more. Supervisor Ringler said Councilman Gunner's point is well taken. He said he would think initially that a senior citizen housing district was drafted and that is very explicit as to what the Town is trying to do there and that is to provide affordable housing. He said perhaps this is the one thing that might be eliminated from requirements of this proposal right away in the draft. He said as far as the affordable housing, that is a difficult issue and he does not know how you would draft that at this point in time but it should be considered. He said he is thinking, the Board has said throughout the master planning process when the Town is doing that, the Board should be looking at something in the master plan that does allow some flexibility for those that might want to build affordable housing in the Town and perhaps, that is when that should take place. He said this would be the place to tie it in together when the Board does come up with something in the master plan. Mr. Ringler said this would be unless Mr. Lipnicky can come up with something creatively to do it at this point in time. Mr. Lipnicky said the real problem is that nobody builds -- as he said, he has not seen any "affordable housing" since he has been here. Councilman Gunner said maybe we have not made it possible. Mr. Lipnicky said we are going to have to find an incentive if that is the type of housing to some extent that we want built in the Town. He said we have to find incentives to get people to do that. Councilman Gunner said particularly for young residents. Supervisor Ringler said he agrees.

Supervisor Ringler said what he would like to recommend then is that this be tabled until the Planning Department comes back with their recommendation in draft form of a Local Law. The motion was made by Mr. Gunner and seconded by Ms. Galvin that this the item regarding Parkland Set-Aside/Payment-In-Lieu be tabled until such time as the Planning Department presents a draft Local Law. The motion was passed by the following vote:

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

- - -

Supervisor Ringler thanked Mrs. Kost and Mr. Lipnicky for a very good job.

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Supervisor Ringler said the next item would need to be removed from the table and then a discussion can ensue pertaining to a zone change from "A", "PRD" zoning to "AA" for land located off Hunter Road, Delmar from Greenshade Consortium, Inc. and to discuss a memorandum and proposal received from C.T. Male Associates. The motion was made by Ms. Galvin and seconded by Mr. Gunner to remove the discussion of a proposed zone change for land located off Hunter Road, Delmar. The motion was passed by the following vote:

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

- - -

Discussion  
Zoning  
Change  
Request -  
Greenshade  
Consortium,  
Inc. -  
"A" and "PR  
to "AA"  
Residential

Supervisor Ringler welcomed Nancy Alexander of C.T. Male Associates. She said she is project manager and landscaped architect, representing Greenshade Consortium here in their proposal for the rezoning of a "PRD" zone and residence "A" zone. Based upon their last meeting with the Town Board, Ms. Alexander said they have gone back to the drawing boards. She said they originally were proposing to rezone to residence "A". She said they have prepared concept plan "E" which meets the minimum requirements of the "AA" zone. She said they have also implemented the bypass roadway, so to speak, which was the result of a traffic study and which had been prepared and presented to the Planning Board by Bruce and this was a location which had been recommended for the roadway by Bruce Secor of the Town. Supervisor Ringler said this is just to protect the corridor, no commitments have been made to build any roads. Ms. Alexander said this was just to protect the corridor, indicating this was correct. Ms. Alexander said this has impacted this subdivision and this was used to revise the layout, as well as some of the lot concepts for the lots, in particular, that were adjacent to what potentially could be a roadway some day. She said there had been some discussion as to the number of the lots in the subdivision which has been proposed due to the terrain, the nature of the site, to be a larger lot subdivision, hence they -- she is going to say -- down-zoning from the PRD and the residence "A" to larger lots, more in character with the Town's "AAA" zone. She said the developer feels very strongly that zoning the property to a "AAA" zone, 1. is -- if you want to say -- detrimental to his project for a piece of property that, she believes, bought back when he acquired it had been proposed for lots in the number of 200 or so. He said he is looking to build anywhere from 61 to 65 lots here. There are approximately, of the lots, according to Ms. Alexander, that have been shown here with the "AA" requirements -- a large majority of them do meet the "AAA" requirements, however, she said 20 lots specifically do not meet the "AAA" requirements due to either the lot width or lot acreage. As indicated, she said they have had to change the character of some of the lots and revise the roadways in the area -- up in this area and due to the terrain and actually what is buildable, they have had to down-size some of the lots from the original proposal. There are an additional 4 lots that do not meet those requirements that due to the particular nature of the terrain, she said lot number 38 for example as well as a fairly large size lot, a major portion of it heads down towards one of the many -- if you want to say the drainageways or ravines that go through the site and while there is a portion of it which they feel can be buildable, to have some

of the extra restrictions for either front yards or side yards upon that lot, would cause problems for the developer in siting houses or in choosing a particular housing style for the lot. She said bringing the total lots that could not conform to the "AAA" zoning to 24 which is a little over 37% of the project site.

Ms. Alexander said this is pretty much the work that has been done to date, since their last meeting, indicating if there are any questions she would be happy to try to answer them. Supervisor Ringler said he was going to ask Attorney Kaplowitz to comment on was something he had asked him to do some research on, was that they asked the developer to do this and they also discussed the possibility -- and Attorney Mancini at that time seemed to be in agreement with his client -- that if the Board agreed to "AA" and that was workable, which you have said, that your group would contractually agree to limit the lots to -- let us say -- the 64 that you are proposing. As was said at that time, according to Supervisor Ringler, this is a very, very nice project that most of the Town Board and the Planning Board concurred would be very nice for that area with these large lots. He said to allow the developer to do what they wanted to do, but to also do what the Town Board wanted to do and that is to have a contractual arrangement. Supervisor Ringler asked Attorney Kaplowitz what his thoughts were on this. Attorney Kaplowitz said over the last few years or maybe more than the last few years, there has been several discussions about conditional zoning, for instance, changing zone on the condition that a certain project be built. He said the law is not as clear as it could be but he believes this sort of thing can be done. He said there have been a few cases that come close. He said there was one case of our own in Supreme Court that was a side issue but it was handled by the judge and favorably. The trouble, according to Attorney Kaplowitz, is that our problem, before tonight, has always been a request by a developer to change the zoning from "A", "AA", "AAA" to a "PRD" and the problem has become -- and a lot of things allowable in a PRD for market conditions or whatever other reasons, the original plan does not get built, the land is sold, 3 years later the new owner comes back and says I want to build one of these other allowable plans. All of that, according to him, do not work in this situation because what we were toying with the idea of doing in some of these instances is changing the zone on the condition that you build the particular project but if you do not build it, it is going to revert to the old zoning. Mr. Kaplowitz said the Board does not want to go back to the old zoning here is the point he was trying to make. He said he did have a thought and after kicking it around and one thing that might be considered -- the 5 Board members and with some discussion of the Planning Board -- is changing it to "AA" if you are satisfied but if this project is materially altered, it would revert to "AAA". Supervisor Ringler said he liked that idea. Councilman Gunner asked if this was defensible. Attorney Kaplowitz said there are no guarantees because this may be breaking new ground again perhaps. Mr. Kaplowitz did say he thinks it is and it can work. He said the big thing has always been the conditions have to be reasonably related to the request. If they come in and say they want to do this and the Board says yes, Mr. Kaplowitz said it is great, but only on the condition you build a movie theater in North Bethlehem, that does not work. Mr. Kaplowitz said he thinks this is a reasonably related condition, of course, he cannot guarantee that. He said he thinks there is a breaking of a little new ground doing that but he, personally, thinks it could be made to stick. He said it certainly puts a premium on a developer making him come in with "AA", asking Mr. Lipnicky if he had any thoughts on this. Mr. Lipnicky said the only concern he has, he guessed, not to do with this particular project but the other portion of the PRD which lies south of here. Supervisor Ringler said he thought that should be included. Mr. Kaplowitz said he was thinking in terms of all of it, both parts. Mr. Lipnicky said he is speaking in terms of how would the contractual zoning and also -- that particular developer may be opposed to this rezoning to "AA" and how is the Town going to get an agreement from him. Attorney Kaplowitz said we are not and he does not think contractual zoning is the way to go. He said generally it does not work. He further said an agreement or anything is the way to go, he said he would say -- assuming the Planning Board agrees and makes a recommendation that is favorable -- the Town Board change the zoning of both parcels to "AA" on the condition that if this project is not built then it reverts to "AAA" on both parcels. Attorney Kaplowitz said this is just a thought, a

novel thought. Councilman Webster said when that PRD was approved, that Hunter's Ridge was supposed to be forever wild anyway. He said they are looking at a piece of land that when the PRD was granted, was stipulated to be forever wild. He further said now that it was sold at a tax auction, they are coming in or he understands there may be some possibility of development on that land, he does not know, stating nothing is ever before the Board. Attorney Kaplowitz said this is a vastly reduced density than anyone had ever anticipated and this is good.

Supervisor Ringler said the point that Mr. Lipnicky is making, however, and it might be limited by the configuration of the land in that other section, is that right now, there is a plan here that will affect the zoning and if it was changed and the Board did this and it would revert to "AAA". He said there is no plan for that parcel, these people could come in with "AA" requirements at this point in time on that other parcel. He further said quite honestly, we are probably protected by the land itself and by the SEQR process. Mr. Lipnicky commented to some extent, maybe, but he means the proposal now is for 120 units or that is what he recalls, on that particular parcel -- the difference... Ms. Alexander indicated the location of the parcel on the map exhibited. Supervisor Ringler asked if it was shown on the corner. Ms. Alexander said it was not and that that area was another portion of their development. She said the other parcel was across the ravine which is not being proposed for development at this time because they cannot access it. Mr. Lipnicky said the difference in the number of units in "AA" and "AAA" under, again the current -- that is a 35 acre parcel under "AA" and "AAA" under our current zoning code is "AA" would allow 102 units on 35 acres, "AAA" would allow 44 units. So, Mr. Lipnicky said there is quite a bit of difference. The other point that should be made about the other parcel, according to Mr. Lipnicky, is that again, 30% of that site or thereabout, has slopes of 15% or greater. He said there are large ravines that run through the site besides totally wooded. He said the smaller the lot, the less chance you are going to have in saving any tree. Attorney Kaplowitz asked which site he was referring to when you say site. Mr. Lipnicky said it was the site south of here. Attorney Kaplowitz indicated this is owned by someone else. Mr. Lipnicky said this is right, it was supposed to be the forever wild or green space for this whole PRD. He said he guesses the issue is whether you are looking at this as rezoning both to "AA" or whether one should be "AA" and one "AAA". He said essentially these folks are saying we will build at a density of "AAA" or greater. Attorney Kaplowitz said they are saying 20 or 24 to the lots. Mr. Lipnicky said our problems are lot lines. Attorney further said they are saying 20 to 24 of the lots do not work. Mr. Lipnicky said this is right, stating the overall density for the whole project is "AAA" standards or greater standards.

Councilman Gunner inquired if they could revert back to the PRD piece that goes onto Hudson Avenue and if this could be put back to "AAA". Supervisor Ringler said this is something that might be accomplished as he sits here thinking. He said if the Board is going to make this parcel "AAA" because of the points that Mr. Lipnicky has brought up -- and they are very good points regarding the parcel -- and make this parcel "AA" with the condition that if it is not built as this, that it reverts to "AAA", we are basically saying this whole parcel, both parcels would be -- with the exception of those 20 lots where there is a problem -- be built to "AAA" standards. He further said he thinks this is what the Board is looking to do. He said he thinks this is a good way to go. He said this was not talked about. Councilman Gunner said he does not have any legal knowledge on it or anything but one project is determining what is happening to another landowner, asking if this was correct. Supervisor Ringler said the Town Board has a right to do this. The Board has the right to change zoning, according to Supervisor Ringler, and he is sure the landowner, he was sure, is going to be at the public hearing. Councilman Gunner said this is what he meant. Supervisor Ringler said he feels that person will let the Board know how he or she feels. He said the point is that when this was originally approved as a PRD, it was the entire parcel. He said the theory of PRDs is looking at an entire parcel and taking those unique features and developing them in line with those features. He further said he really does not feel guilty that this parcel now has been split with the Board going back and rezoning both of those parcels. Councilman Gunner said he has no problem with guilt,

it is just a matter of whether or not it can be done. Supervisor Ringler indicated it is a legislative act. Attorney Kaplowitz said generally until they have at least started something substantial, the rule used to be until they have footings in the ground, you could change the zoning on them. He said that can be very harsh sometimes. Councilman Webster said we have to protect the integrity of that Hudson Avenue area. Councilman Gunner said he agreed with Mr. Webster. Councilman Webster said it does not make any sense... Attorney Kaplowitz said he does not think there would be any trouble defending the change at this point in the game. Supervisor Ringler indicated he would like to move ahead. He said the question mechanically regards the scheduling of a public hearing to do the zone change. He said the recommendation has already been received from the Planning Board. Attorney Kaplowitz asked if this was on the new proposal. Supervisor Ringler said it was not, the original proposal was to go to "AA" or "AAA" from the Planning Board. Mr. Lipnicky said the Board was split 3 wanted to go to "AA" and 3 "AAA".

Supervisor Ringler said what is being said is that it does not have to go back to the Planning Board for anything further from them. He feels the public hearing can be set and move this ahead. The legal descriptions need to be written, Supervisor Ringler said. Ms. Alexander said their's are in process right now for both of these parcels to be rezoned. Supervisor Ringler noted for clarification that the Board is talking about the whole parcel, what is currently "A" also will go to "AA". He said this is an increase as well. Attorney Kaplowitz asked if it was their parcel also. Supervisor Ringler indicated they own it and they are proposing to take that plus what is the PRD and making it "AA". Mr. Ringler said the Board is making the condition that if this project does not proceed generally as it is being presented now, it would revert to "AAA" and then the other parcel would be "AAA". Mr. Lipnicky asked if they are saying at this point in time to rezone the other parcel to "AAA". He said Ms. Alexander said that they are writing the legal description at this point in time for the lands that they own, it will also involve writing the legal description for the other lands which means that the Engineering Department would have to do that and he did not know what their work schedule is like in order to get something out at the same time. Supervisor Ringler asked Ms. Alexander if they had the material that they could add that for the description of the zone change. Ms. Alexander said possibly, she would have to check. She said it is possible if that is in the legislation for the PRD, they do have it. Mr. Lipnicky said there is an original description here in Town. Ms. Alexander said she can check with the surveying department and see if they can do that for the Town. Supervisor Ringler said he was sure they might have it and it would expedite the public hearing if this information was available. He said what he was thinking is that if the public hearing was scheduled for an August 28th hearing, the information would have to be in the offices by August 16th. He asked if this was reasonable to get that in by then if a public hearing is set. Ms. Alexander said it is. Supervisor Ringler said the legal description is all that is necessary to set the public hearing. Supervisor Ringler thanked Ms. Alexander for her presentation.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to schedule a public hearing on August 28, 1991 at 7:30 p.m. in regard to the rezoning of a parcel of land located off of Hunter Road to "AA" Residential from Planned Residential Development and "A" Residential; and the remaining lands of the Planned Residential District to be zoned "AAA" Residential. The motion was passed by the following vote:

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

\*See Resolution on Page 462 instead of above motion.

Supervisor Ringler noted if something happens that the description is not available, the public hearing date can be adjusted at the next Town Board meeting.

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Supervisor Ringler said the next item on the agenda was to remove from the table and discuss the water penalty for late payment of audit bills. The motion was made by Ms. Galvin and seconded by Mr. Webster to remove from the table and discuss the water penalty for late payment of audit bills. 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 indicated since this was last discussed, Attorney Kaplowitz has been working on this and looking into it further and there has been discussion with the Association of Towns. He asked Mr. Kaplowitz to explain what information has been obtained. Attorney Kaplowitz said when this was first discussed he had told the Board that he thought the Board had the authority to probably implement 15% penalty in addition to the 10% that exists now. Mr. Hahn, Receiver of Taxes and Assessments, wrote to the Association of Towns and after reading their response, he said he is inclined to agree with them that the Board does not have the authority. He said the Town Board really does not have the authority to do this. He said the Board probably has seen the letter and they suggest one alternative would be to turn off people's water. Supervisor Ringler said he had a real problem with that. Attorney Kaplowitz said he hoped the Town was not ready to do that. He said a lot of people who are not simply trying to avoid the bill and trying to take a tax deduction are going to suffer with that. Attorney Kaplowitz said he does think the Association of Towns is right that the Town Board does not have the authority to do that. Supervisor Ringler said he feels there is nothing further to be done. If this cannot be done, according to Mr. Ringler, he will simply notify Mr. Hahn that it cannot be done legally. Councilman Webster asked if we had the right of threat and just put it in there. Supervisor Ringler said the Board, he thought -- although he said he did not know how the rest of the Board felt -- he did not want to get into a position of turning people's water off. The other Board members concurred, with Mr. Webster indicating the Town would be getting into a liability situation. He said he listens to enough of those Niagara Mohawk Power problems in the winter when they shut off the power.

Discussion  
Water  
Penalty for  
Late Payment  
of Audit  
Bills

Supervisor Ringler said he does not think there is any action required, it would just be an inaction on the Board's part and thanked the Board members.

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Supervisor Ringler said the next is a request from Mr. Kenneth Hahn, Receiver of Taxes and Assessment, for overpayment of water rents for the month of June, totaling \$15.00.

Approval of  
Reimbursement  
of Overpay-  
ment of  
Water Rents

The motion was made by Mrs. Fuller and seconded by Mr. Webster to approve the reimbursement of overpayments of water rents for the month of June as noted. 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 said the next item was a request from Bruce H. Secor, Commissioner of Public Works, for acceptance of covenants and drainage easement from James and Robin Cramer, Voorheesville, NY for Mountain View Estates pending approval of the Town Attorney.

Acceptance  
of Deed for  
Easement and  
Covenants -  
Cramer, Mt.  
View Estates  
New Scotland

The motion was made by Ms. Galvin and seconded by Mr. Webster that the covenants and drainage easement from James and Robin Cramer, Voorheesville, New York for Mountain View Estates be and it hereby is accepted, pending approval of the Town Attorney. 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 said the next item was a request from Bruce Secor, Commissioner of Public Works for acceptance of a highway deed from Charles Preska, VanDyke Road, Delmar, NY for the reconstruction of VanDyke Road, pending approval of the Town Attorney.

460  
Acceptance of  
Highway Deed-  
Preska

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the highway deed from Charles Preska, VanDyke Road, Delmar, NY be and it hereby is accepted, pending approval of the Town Attorney. 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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Acceptance of  
Highway  
Deed -  
Berben

Supervisor Ringler said the next item was another request from Bruce Secor, Commissioner of Public Works, for acceptance of deeds from Harold and Jean Berben, Beacon Road, Glenmont, NY for the reconstruction of Beacon Road, pending approval of the Town Attorney.

The motion was made by Ms. Galvin and seconded by Mr. Webster that the highway deed from Harold and Jean Berben, Beacon Road, Glenmont, NY be and it hereby is accepted, pending approval of the Town Attorney. The motion was passed by the following vote:

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

- - -

Councilman Webster asked if this was the end of the deeds for the Beacon Road reconstruction. Supervisor Ringler said he believed it was. He said the land acquisition is completed.

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Presentation  
Statement  
from So.  
Bethlehem  
Area Assoc.  
regarding  
landfill  
sites -  
ANSWERS-  
City of  
Albany

Supervisor Ringler asked if there was anything else anyone would like to bring to the attention of the Board. Mr. Gordon Hamilton next spoke, indicating he is a representative of the South Bethlehem Area Association. He said he would like to present to Supervisor Ringler and the Town Board a statement of position of the South Bethlehem Area Association in connection with the ANSWERS proposals and its affects on the Town. He read the following statement:

TO: Kenneth Ringler, Town of Bethlehem Supervisor  
and Town of Bethlehem Board  
FROM: The South Bethlehem Area Association

The South Bethlehem Area Association requests the Town of Bethlehem to oppose any A.N.S.W.E.R.S. proposed landfill sites in our Town and to further oppose sites in the Town of Coeymans.

The process by which these sites were chosen was done in a very sloppy, haphazard manner. The only real criteria taken into consideration was soil characteristics. From the two public meetings held in the Town of Bethlehem and one in the Town of Coeymans we discovered:

- Many sites are within 1000 feet of residential populations and Town parks;
- Many sites include wetland or other protected lands; historical sites, buildings, gravestones, and such;
- Agricultural lands are among targeted sites;
- Some sites have gas lines running through them or close by;
- No consideration was given to private wells;
- Several sites are adjacent to the Onesquethaw Creek, the Coeymans Creek and even some aquifers;
- Blasting from Callanan Industries might crack the liner of a landfill sited in that area;

There are also wide discrepancies in the figures given as to how many trucks would be using the facility on a daily basis. From 3 trucks an hour for an 8 hour day, to only 3 or 4 trucks a day!

Points of opposition to all the proposed sites center around land, water, and air pollution of whole communities, not just the affected areas. It could even be toxic long after the landfill has been filled and closed, leaving us with damaging effects to our land, wildlife, air and most importantly, our families. And lets not forget that we already live in the shadow of several facilities that burn their waste,

two proposed waste burning facilities, plus toxic emissions from the hundreds of trucks already traveling through our communities. There are enough polluters in our area now - we can't stand anymore.

ANSWERS cannot guarantee that pollution from their landfill will not occur. Nor can we be certain that waste from outside ANSWERS will be kept out. It is not a coincidence that all but one site are in close proximity to the Conrail yards. At some point, its possible that the landfill may accept waste coming by rail from downstate metropolitan areas.

ANSWERS expects the landfill to last 20 years. After that time, they will be looking for another site! This is only a temporary and ineffective solution to solid waste disposal.

We urge the Town of Bethlehem and the Town of Coeymans to join together in opposing this project. The proposed sites in both towns are so close to one another, that pollution and other adverse effects of a site selected in either town will be shared by the other. Pollution does not discriminate, it will cross town lines. Don't let a Town line divide us on this issue. We must work together to keep this project out of both Towns.

We also urge the Town of Bethlehem to pull out of ANSWERS and commit to taking care of our own waste. The residents of this Town have already demonstrated their willingness to explore and participate in alternative waste reduction methods through the recycling program. We feel positive That residents of this Town will be equally committed to other alternative waste reduction programs.

It is unfair to expect this Town to bear the burden of other municipalities' waste problems.

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Mr. Hamilton said in addition to the statement -- and he had copies for the press -- today the South Bethlehem Area Association, as part of a greater organization now being formed, has submitted a letter to Mr. Willard Bruce of the City of Albany Planning Office, asking that they extend the period of time for public comment from the July 15th date to a more reasonable time so that they can respond to all the inaccuracies for the 15 or so sites identified. Supervisor Ringler asked Mr. Hamilton what particular time period they have asked for. Mr. Hamilton said they thought they would let them determine what that would be. Supervisor Ringler said the reason he asked was that he would write a letter in support if that is what they would like to do. He said he would certainly would support whatever they were looking for, for additional time. He further said if he would like to give him a call, he would gladly write a letter of support to Mr. Bruce telling him based upon their request. Mr. Hamilton said they considered asking for the same period of time that the consultants had to conduct their study but they felt... Supervisor Ringler thanked Mr. Hamilton for his statement. He said basically he would like to thank the Association for supporting the Town Board's position.

Supervisor Ringler asked Mr. Hamilton if he was in attendance initially and heard the motion passed. Mr. Hamilton indicated he was. He thanked Mr. Hamilton. Councilman Gunner had one or two questions of one or two things that were said. He asked if they are going to get information that would deal with all 15 sites. Mr. Hamilton said it would address all 12 sites located in either the Town of Coeymans or the Town of Bethlehem. Councilman Gunner asked if he did say that you would support one of the towns to deal with the solid waste themselves, he meant you as a representative of the Association. Mr. Hamilton said yes. Supervisor Ringler asked if this included the Town building their own landfill, if we have to. Mr. Hamilton said yes, certainly. Councilman Gunner asked if this also pertained to doing other integrated forms -- meaning reduction, reuse, and reduce are part of the answer -- there is always something left over. Mr. Hamilton said by whatever means. Councilman Gunner thanked Mr. Hamilton. Supervisor Ringler thanked Mr. Hamilton for presenting this statement to the Town Board.

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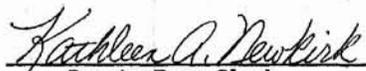
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Supervisor Ringler asked if there was anything else to be brought to the Town Board's attention. Mr. Ungerer mentioned he showed up a little late and he wondered about the Local Law for the Scooper Law. Supervisor Ringler said it passed. Mr. Ungerer said he came for the scooper law and said we are all set. Supervisor Ringler said it is all done and there were some changes. He noted the change stated that if a Town right-of-way is not used as somebody's lawn, then people do not have to pick it up in that particular area. Mr. Ungerer asked if this included circles. Supervisor Ringler said if that is mowed as a lawn. Mr. Ungerer said it is mowed by the Town at this point. Supervisor Ringler said in that particular case -- Mr. Ungerer said that is acceptable -- Attorney Kaplowitz said this is something they had not dreamed of. Mr. Ungerer said because this is his complaint, he lives on a circle. He said everyone from the entire development uses our circle and two undeveloped lots for their doggy toilet. He said he has three small children and they are getting tired of cleaning shoes and you know... He asked if this would be acceptable. Supervisor Ringler said the Attorney will have to look into that but he thinks in the Town Board's view they would not want people doing that in those areas that we mow but he did not know. That is a question that was not raised before, according to Supervisor Ringler. Mr. Ungerer said it was a fine welcome into a new neighborhood. He further asked if it was passed and that is the way it stands. Supervisor Ringler said this was correct. Mr. Ungerer thanked the Board.

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Supervisor Ringler indicated this completed the agenda and any other business. The motion was made by Ms. Galvin and seconded by Mr. Webster to adjourn the Town Board meeting at 9:00 p.m. The motion was passed by the following vote:

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

  
Deputy Town Clerk

\* WHEREAS, the Town Board desires to consider amendments to the Zoning Ordinance and Zoning Map of the Town of Bethlehem as more particularly set forth in the Notice of Hearing to be published, and

WHEREAS, the Town Board desires to hold a public hearing with reference thereto, Now, therefore, be it

RESOLVED, that a public hearing be held by the Town Board of the Town of Bethlehem, 445 Delaware Avenue, Delmar, New York on the 28th day of August, 1991 at 7:30 p.m. to consider the proposed amendments to the Zoning Ordinance and Zoning Map, and be it further

RESOLVED, that the Town Clerk be and she hereby is authorized and directed to publish a notice of hearing in THE SPOTLIGHT, the official newspaper of the Town and a newspaper of general circulation in the Town on the 14th day of August, 1991.

The foregoing resolution was presented for adoption by Ms. Galvin was seconded by Mr. Gunner and was duly adopted by the following vote:

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