

.TOWN BOARD
JUNE 28, 2000

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

PRESENT: Sheila Fuller, Supervisor
George Lenhardt, Councilman
Doris M. Davis, Councilman
Daniel G. Plummer, Councilman
Susan Burns, Councilman
Kathleen A. Newkirk, Town Clerk
Bernard Kaplowitz, Esq., Town Attorney

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Supervisor Fuller welcomed everyone to a regular meeting of the Bethlehem Town Board and invited them to join in the pledge of allegiance.

The first item on the agenda was a request from David Austin, Administrator, Parks & Recreation Department, for consideration of a proposed Dog Park and adoption of rules for said park. Supervisor Fuller mentioned that there have been a significant number of residents who have asked over the years and requested a dog park. She said it was this year that it has begun to be looked at seriously and a meeting was held with a group of residents. She said a committee was formed and has met monthly and then every other week. She said a number of the committee members were in attendance.

Administrator Austin gave an overview of the proposed dog park, noting the location of the park on an exhibited map. He noted this is a request to fund fencing for the proposed park. Note was made that this is Town owned land and has an existing access path. Mention was made of a need for repair to some of the existing fence and that a disposal system will need to be installed. The proposed rules were also discussed for the park. Work would be performed by Parks and Recreation Department staff and Highway Department staff, according to Mr. Austin. He explained the Job Corps has a chain link fence program where the students are supervised and install fencing and they have verbally agreed to put the new fencing in for the Town and \$1500 in labor costs will be saved.

Mr. Austin said the estimated cost is approximately \$13,500 and the Board was being asked to approve a transfer from the Town's Contingency account to the Parks and Recreation Department budget.

Mr. Austin said due to concerns for parking in the area, there are signs proposed to be posted 300 feet in an easterly and westerly direction of Park Edge Lane. He said posted no parking will also be done along the access road and 2 signs on Park Edge Lane which will be placed about 200 feet in from the corner and will indicate no parking here to corner with an arrow. The signs will not be posted on the immediate front lawns of the residences. If parking was not working out, Mr. Austin indicated an area where 8 or 10 spaces could be placed by the Town following permission from Niagara Mohawk for the right-of-way area.

Mr. Austin indicated permits will be required for use of the park, as well as, proof of vaccination. Permits will be available at the Town Clerk's office and licensing is required. Fee of \$20 per dog per year has been recommended.

Questions were raised and answered. Following concerns raised by neighbors of the area, the committee is to meet with 3 additional residents and come back to the Board at a later time when issues are resolved.

The motion was made by Mrs. Davis and seconded by Ms. Burns to table the proposed Dog Park, transfer of funds and adoption of rules for said park until August 9, 2000. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

The next item was a recommendation from the Planning Board and Planning Department regarding approval of the Final Scope of the DEIS for Bethlehem Town Center (NIGRO project), Route 9W, Glenmont.

Supervisor Fuller asked Mr. Lipnicky, Town Planner, to give a brief overview. Mr. Lipnicky gave information regarding the preparation of the scoping document with the developer, the Planning Board, a public meeting with oral comments and written comments submitted. The document is a comprehensive scope for the draft Environmental Impact Statement, according to Mr. Lipnicky. He said the issues that must be addressed in the draft statement are laid out in detail. He said there are sub-issues and methodologies that need to be looked at. Alternatives are also contained within the document, Mr. Lipnicky said. Other issues to be addressed include wetlands; geotechnical issues; slope stability issues associated with the ravines; water quality type of issues; drainage issues; archeological and historic resources; visual issues; noise and air quality issues; construction activity issues; transportation issues; and quality of life issues. He said water and sewer, community services and fiscal impacts will also be looked at plus land use issues and community character.

Mr. Lipnicky mentioned others in attendance including Mark Dempf from Vollmer Associates and John Nigro and Bob Sweeney from the Nigro Companies, as well as, John Fenzel from the Engineering Division of Department of Public Works.

Supervisor Fuller noted 2 letters were received. She said issues were raised that have not been addressed and requested someone respond to the letter. She said another letter received the day before was from a woman who brought it to the Planning Board last week. Mr. Lipnicky said the letter from Ms. Bain has an attachment concerning issues of slope stability primarily. He said the attachment was written at the time of the Southgate project. He said the issues raised in the letter are issues that they are aware of. Mr. Lipnicky said they have hired an expert to review the work done by the applicant and the issues will be addressed.

Supervisor Fuller and Councilman Davis complemented Mr. Lipnicky and those who worked hard on this document noting it was very complete.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the Final Scope of the Draft Environmental Impact Statement for Bethlehem Town Center (NIGRO Project), Route 9W, Glenmont, Town of Bethlehem. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

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The Supervisor thanked Mr. Lipnicky and the others in attendance.

Mr. Nigro asked to address the Board, informing them that at the last Planning Board meeting there was a change from the second largest home improvement company in the world to the number 1 home improvement company in the world, The Home Depot. He said that says a lot for the Bethlehem Community. Councilman Davis asked if this would then be a Home Depot. Mr.

Nigro confirmed that was correct. Supervisor Fuller noted it will be Walmart and Home Depot. She said they were identified in the DEIS. She thanked Mr. Nigro.

The next item was a request for a zone change from AA Residential to CCC Commercial District pertaining to 741 Delaware Avenue, Delmar. Supervisor Fuller asked Mr. Hayko to present the information regarding this request. Mr. John Hayko of Mancini and Hayko, P.C., representing Mr. Benjamin and Stephen Meyers of Delmar, NY, owners and funeral directors of Meyers Funeral Home gave information to the Board. He said the purpose of this request was to ask for a public hearing to rezone the property. He noted the CCC Commercial District designation permits by site plan review the use mortuary or undertaking parlor as long as it is located on a lot more than 20,000 square feet in size.

Mr. Hayko said Mr. Paul Hite, LLC, was in attendance and would answer any questions there may be about the location. He said the lot is 2.23 acres located at the intersection of Longmeadow Drive and Delaware Avenue, diagonal from the high school, noting there is an apartment house and office directly across from the site.

Mr. Hayko explained that the request was precipitated by the many exigencies of the funeral and undertaking industry. He noted at present given their present zoning, the property is permitted to only expand their non-conforming use by a maximum of 25 percent with site plan review. He said any further expansion would be a fairly simple thing to reach the 25 percent increase and then a use variance would be required. He said Mr. Meyers is looking to continue the funeral home as a family business and eventually have the opportunity to pass the business and ownership to his son, Steve.

Mr. Hayko gave some background information regarding the property and the current premises. Mr. Hite gave information about the surrounding uses and zoning in the area.

Question was raised as to what the purpose of the request was. Mr. Hayko said the special exception existed previously and it does not at this time and that ties the hands of Mr. Meyers to be able to reasonably expand the property, noting it is a viability issue. It is not their intention to walk away from their practice, according to Mr. Hayko, indicating this is their profession. He also noted there are no plans at this time to expand the use but as part and parcel of the passage of the operation of the home through the generations, he feels there is a desire to avoid having a zoning board quasi-judicial, quasi-adversarial approach to having use variances which are difficult to obtain. He said he believes the immediate plans for the property are to garage the cars and expand the preparation area. He said there may be a need in the future to expand the casket showroom. These are the items discussed with the Meyers family, Mr. Hayko said.

Mention was made regarding rezoning requests that were on the last Town Board agenda and the fact that the Board is hesitant to move forward with such requests, especially when specific plans are not presented. Further comment was made that this applicant does have the availability to approach the Zoning Board of Appeals which the previous applicants did not have. Mr. Hayko commented that the other locations represent a clean slate where this is an existing business.

Concern was expressed that the request does not specifically indicate that the use will remain the same and therefore, reservations exist with regard to the request. Information contained in the submission, notes the residential character would remain the same so long as the family owns the property. Mr. Hayko agreed

that that does bring a concern and he can understand that. He said it is a legitimate concern for the Board.

Councilman Plummer said he spoke in favor of the rezoning for the sites along New Scotland Road because he firmly believes that area is a commercial area now. He said as it relates to this site, the site itself is in a residential area now. He said it is clearly a residential area, however, if expansion was needed for the operation of the business, he would be willing to look at that specifically. However, he feels to change this to a commercial district that would allow other uses may create some problems in the future.

Further discussion followed including what the options were for this proposal. Mr. Hayko said they would consider restrictions on the use as suggested by Councilman Lenhardt. He said he is also considering a request that funeral homes be permitted as site plan uses in certain districts. He said there are a very limited number of funeral homes in the Town of Bethlehem. Councilman Davis said the proposal to have a garage or other expansion of the mortuary as a funeral home, not increasing the uses permitted might be acceptable. Mr. Hayko said it makes more sense to have it zoned appropriately rather than expanding it as a residential property. Attorney Kaplowitz asked Mr. Hayko why it would not be an area variance as opposed to a use variance. Mr. Hayko said they are talking about the expansion of the existing facility. Mr. Kaplowitz said he is thinking out loud because the proof between the use and area variance is huge. Mr. Hayko agreed and said he did not think there was any question that the Meyers are sincere in allowing any restriction with having the ongoing use of the business. He said there are many approaches that could be taken to restrict this use even if a rezoning occurs. He further noted he did not think the Meyers would have any problem going along with all the restrictions so long as they are permitted to expand as is typical in the industry and as it does not impact negatively on neighbors.

Mr. Hayko admitted they should show the Board where things could go if that is something that the Meyers are willing to do. Supervisor Fuller commented that there have been several uses mentioned for the property and she thinks in fairness to the Board, the proposal has to be more specific as to what this really is all about. She said she spoke with Mr. Mancini and asked what this was about and she has not gotten a clear picture on it. Mr. Hayko said they have given 4 examples of where expansion will more than likely be necessary, including a community room. He said anything that is done will be consistent with the funeral industry. Supervisor Fuller commented as long as they own the property. Mr. Hayko said that is their intention and in order to be able to continue owning the property they need some form of approach and security that there will be a means to play on the same field that the other funeral homes in town play.

The motion was made by Mr. Lenhardt and seconded by Ms. Burns to send the request to the Planning Board for their review knowing that the applicants are going to spend more of their money to have that review taking place and brought back to the Town Board, knowing the feeling of the Board, potentially to be denied, including if the Planning Board could provide something that was restricted to a funeral home with specific uses and it might be accepted. The motion was passed by the following vote:

Ayes: Mr. Lenhardt, Mr. Plummer, Ms. Burns.

Noes: Mrs. Fuller, Mrs. Davis.

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Councilman Lenhardt noted he is not in favor of just the “CCC” Commercial District zoning.

Mr. Hayko thanked the Board.

The following item was a request from Administrator, David Austin, Parks and Recreation Department, for approval of appointment of summer personnel.

The motion was made by Mrs. Davis and seconded by Ms. Burns to approve the appointment of summer personnel as requested by David Austin, Administrator, Parks and Recreation Department, in his Memorandum dated June 28, 2000 at the titles and salaries listed. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

The next item was a request from Police Lt. Timothy K. Beebe for consideration of an amendment to the Code of the Town of Bethlehem for a Stop Intersection at Cherryvale Boulevard and McCormack Road North, Slingerlands. Supervisor Fuller indicated a public hearing needed to be set for July 26, 2000 at 7:30 p.m.

The motion was made by Ms. Burns and seconded by Mr. Plummer to set a public hearing for July 26, 2000 at 7:30 p.m. to consider a proposed Local Law, amending the Code of the Town of Bethlehem, to permit a Stop Intersection at Cherryvale Boulevard and McCormack Road North, Slingerlands. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

The following item was a request from Jeffrey Dammeyer, Director, MIS Department, for disposal of surplus equipment. Supervisor Fuller said the Town's computer and network upgrade has been completed and as a result there is surplus computer equipment. She said Mr. Dammeyer is recommending that the Town declare all equipment surplus and request bids for purchase of this equipment. She said most of it has little value and noted it is outdated technology and if no bids are received should be declared scrap and disposed of.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to declare the computer equipment surplus, receive bids for the purchase of the equipment and if no bids are received declare the equipment scrap and have it disposed of. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

The next item was to acknowledge receipt of the Annual Report of the Town of Bethlehem Historical Association. Supervisor Fuller said they just celebrated their 35th anniversary and congratulated President, Parker Mathusa, noting he has done a tremendous job in bringing the best kept secret out into the public. She noted the Museum is getting a lot of publicity and hopefully a lot of people going through there.

Councilman Davis noted it was a very comprehensive report and thanked Mr. Mathusa.

The following item was a request from Commissioner of Public Works, Bruce Secor, for approval of appointment of Maintenance Helper. Supervisor

Fuller noted Mr. Hummel and Mr. Secor interviewed 4 candidates and their selection is Frankie LeBran of 18 East Fernbank Avenue, Delmar.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the appointment of Frankie LeBran, 18 East Fernbank Avenue, Delmar, NY to the position of Maintenance Helper. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

The next item was a request from Fire Training Facility Supervisors for approval to go to bid for one (1) flammable liquid training simulator for use at the Town Fire Training Facility. Supervisor Fuller noted they would like to advertise in the July 5, 2000 issue of the Spotlight and bid openings be at 3 p.m. on August 2, 2000. She said they had one (1) bid previously and the bid was extremely high and they are looking to go back out to bid.

The following resolution was offered by Mr. Lenhardt and seconded by Ms. Burns:

WHEREAS, the Town desires to advertise for bids for the purchase of one (1) flammable liquid training simulator for use at the Town Fire Training Facility, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 5th day of July, 2000 and that bids be received up to 3:00 p.m. on the 2nd day of August, 2000 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

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Supervisor Fuller thanked Mr. Shea and Mr. Webster for their attendance.

The next item was a recommendation from Bruce Secor, Commissioner of Public Works, for acceptance of deeds for Dowerskill Village – Section 2B. Supervisor Fuller said these are street deeds totally 1,356.9 feet of new highway. She also noted a Letter of Credit was submitted issued by Evergreen Bank, NA in the amount of \$142,500 to cover the cost of remaining work.

The motion was made by Mrs. Davis and seconded by Ms. Burns to approve the acceptance of deeds for Dowerskill Village – Section 2B from Jenkins Building Corporation, f/k/a Jenkins Management Co., Inc., 834 Kenwood Avenue, Slingerlands, NY. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

The following item was a request from Commissioner of Public Works, Bruce Secor, for approval of award of bid for installation of a 12” water main in North Bethlehem to Casale Excavating, Averill Park, NY. Supervisor Fuller said

this was the low bidder at a cost of \$341,799. She said this was a little below the estimated cost for this project.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the award of bid for the 12 inch water main in North Bethlehem to Casale Excavating, Averill Park, New York at a low bid price of \$341,799. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.

Noes: None.

The next item was a request from Commissioner of Public Works, Bruce Secor, to accept a proposed lease agreement for Nextel, Inc. to put antennas on the Town owned water tank. Supervisor Fuller noted the revenue for the Town would be \$15,000 annually. She said Attorney Tobin was in attendance and noted he represents the Water District.

Comment was made that a previous lease agreement was reviewed and this one is significantly better for the Town. Mr. Tobin noted they worked very hard on this agreement because they thought it would serve as a model for this type of lease for future telecommunication companies. He said there will be a number of companies looking to locate in the future and he thought Mr. Secor was negotiating with another one at this time.

Question was raised as to whether there is room for additional antenna. Mr. Tobin said there is room for more. A representative of Nextel, Inc. noted Mr. Secor requested that they locate on an unusual spot on the tank to allow for more room for other carriers and they have agreed to do this. He said they are locating at the top of the tank underneath the drip edge where a typical location is on the handrail, lower on the tank. He said usually there is room for a total of 3 carriers on the handrail. He said currently there is one so there would be room for 2 more or anywhere else on the tank.

An additional question was raised regarding the size of the building to be erected by Nextel, Inc. asking if the rent included the building. Mr. Tobin said it did include the building.

Question was raised as to the size of the building and that it is larger than another location. The representative explained that the other company uses cabinetry and not a building. He said their workers open up cabinets and they are exposed to the elements. The representative said their workers go into a building and the electronics are protected in there with temperature control. There are additional reasons for the use of a building including the equipment being more complicated, they require more room and it provides room for expansion if more equipment is needed.

Mr. Tobin noted in regard to the rent it is for 5 years with increases of 5 percent of the rent of the previous year and automatic renewal each successive Renewal Term with approval of extension for three (3) additional five (5) year terms. Mr. Tobin mentioned that at the end of the 5 years the amount will be over \$18,000. He said other municipalities charges were looked at when this agreement was considered.

Question was raised about the fact of one carrier having a building and would other carriers want to construct a building also or would it be feasible for the Town to build a building and charge rent. Mr. Tobin indicated there is a lot of room and the carrier looking at this time is interested in another location. Mention was made that it seemed a long term agreement when you look at the 20 years of the full term of this lease. Mention was made that one lease was 25 years.

Another question was asked regarding the building and whether it is assessed or is there an amount covered in the rent. Mr. Tobin said it is on Town property so he did not know. He noted the Town is not going to be liable for any cost at all. Mention was made that paragraph A of the agreement addresses taxes. It states lessee agrees to pay during initial term or any renewal terms under the agreement any real property taxes, assessment charges or rents.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to accept the proposed lease agreement for Nextel, Inc., to locate antennas on the Town-owned water tank. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

The next item was a request from Superintendent of Highway, Gregg Sagendorph, to enter into an agreement with the Town of Coeymans to allow them to participate in our 2001 Household Hazardous Waste Collection Day.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve the agreement with the Town of Coeymans to allow them to participate in the 2001 Household Hazardous Waste Collection Day. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

The following item was to approve the Town Board minutes of April 12, 2000, May 10, 2000 and May 24, 2000.

The motion was made by Mrs. Davis and seconded by Ms. Burns to approve the Town Board minutes of April 12, May 10 and May 24, 2000 as submitted. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

The next item was to appoint Marriage Officers for the term expiring July 2004. Supervisor Fuller said this is to reappoint them for another 4 year term. The appointees are Barbara Hodom, Court Clerk and John Capron, resident of South Bethlehem.

The motion was made by Ms. Burns and seconded by Mr. Lenhardt to approve the reappointment of Barbara Hodom, Court Clerk, Delmar, NY and John Capron, South Bethlehem, NY as Marriage Officers to serve within the Town of Bethlehem for a four (4) year term. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

Supervisor Fuller asked if anyone wished to address the Board. Mrs. Marie Capone said she wrote to the Spotlight but they did not publish her letter. She said she wrote that Mrs. Fuller adds sidewalks to the Town every year, this year it is from the senior high school to the BIG arena. She said the other thing was there is a crisis with the landslide and we can tackle one crisis a year and the landslide is it.

She said she was at McDonald's last Saturday night and she talked to the policeman. She said 3 cars stopped to tell him they were going to Tastee Freeze. She said Crannell is a little street and he is standing in the street. She said every year she promotes the Town to employ more police officers. She said the Town would be better off with more officers.

Supervisor Fuller said in regard to the landslide that the erosion blanket is being placed over the slide area and exhibited a piece of the blanket material. She said they will be placing the blanket and tacking it in. She said it is more involved than just what is shown. She said these are the latest pieces of material that the State is installing. She said they are in her office on display for anyone who wishes to come and see what an erosion blanket is. She said it will work to absorb the moisture on the slope itself and prevent additional rain from going through. She said it allows vegetation to grow right through it. She said it is the beginning of the long haul to have the end result to have Delaware Avenue reopened.

Comment was made that it is nice to drive Delaware Avenue like it was 38 years ago when it was quiet. Supervisor Fuller agreed that it is very quiet, noting she had a call from a resident in Albany asking how long it could be kept like this.

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The motion was made by Mrs. Davis and seconded by Ms. Burns to adjourn the regular Town Board meeting at 10:10 p.m. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Ms. Burns, Mr. Plummer.
Noes: None.

Town Clerk