

TOWN BOARD
SEPTEMBER 8, 2004

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 5:30 p.m.

PRESENT: Theresa Egan, Supervisor
Daniel Plummer, Councilman
George Lenhardt, Councilman
Thomas Marcelle, Councilman
Tim Gordon, Councilman
Kathleen A. Newkirk, Town Clerk
James T. Potter, Esq., Town Attorney

- - -

Supervisor Egan welcomed everyone and invited them to join in the pledge of allegiance.

Supervisor Egan said they would begin with public comment. She asked if anyone had any comments on any item on the agenda. Mrs. Capone said she wanted to talk about the sidewalks. She said the one is being done by Councilman Plummer's parents. She said for 10 years she has been saying between Verstandig's and the Mobil station the sidewalk should be finished. She said today the sidewalk is half closed at the library, and tomorrow school starts. Supervisor Egan said just so it is clear, there is a sidewalk going to the Mobil station on one side of the road. She said there is no sidewalk on Elsmere Avenue that is being discussed. Mrs. Capone said okay.

Supervisor Egan asked if there was anything else. There was none.

The first item was to approve Town Board minutes of August 25, 2004. The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the Town Board minutes of August 25, 2004 with one correction. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: None.

The next item was the dedication of a Plaque for Kevin M. Shea. Supervisor Egan said they thought it was fitting since the fire convention was kicking off tonight. She said this was something they wanted to do for Kevin Shea. She asked Mrs. Shea to come forward and acknowledged the plaque to be placed at the Town Hall. Mrs. Shea thanked the Supervisor and Board.

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

The motion was made by Mr. Gordon and seconded by Mr. Lenhardt to approve the appointment of seasonal personnel at the titles and salaries indicated on the list dated September 8, 2004 as requested by Nan Lanahan, Administrator, Parks and Recreation Department. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: None.

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

The following item was a request from Engineering Services Administrator, Michael Cirillo, for acceptance of deeds and easements for McCormack's Hollow Subdivision. Supervisor Egan said there were 3 deeds to be accepted.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to approve the acceptance of deeds and easements for the McCormack's Hollow Subdivision as requested by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

The next item was a request from Michael Cirillo, Engineering Services Administrator, for approval of release of bonding for Haswell Farms Subdivision. Supervisor Egan said the Engineering Division received a request from Mr. Rosen for release of bonding for Phases 1 through 8.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve the request of Michael Cirillo, Engineering Services Administrator, as listed in his Memorandum dated September 1, 2004 for release of bonding for Haswell Farms Subdivision. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

The next item was a request from Engineering Services Administrator, Michael Cirillo, for acceptance of deeds relating to the Elsmere Avenue sidewalk Phase 1 project. Supervisor Egan said one part of this was for the acceptance of deed for the Elsmere Avenue sidewalk project, Phase 1. She said at the July 28, 2004 meeting, the Board approved the construction of the Elsmere Avenue sidewalk, subject to a permissive referendum for the use of General Fund Capital Reserve Funds. The 30-day permissive referendum period ended on September 4, 2004. She said Phase 1 is the Norge Road to the Delmar Bypass and several easements have been conveyed. She said 21 of 26 property owners have already conveyed their interest. She said the compensation is listed in the Memorandum from Mr. Cirillo.

The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to approve the acceptance of deeds and the compensations for said easements as set forth in the Memorandum from Michael Cirillo, Engineering Services Administrator, dated September 1, 2004. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

- - -

Supervisor Egan explained the second part of this which is set forth on the second page, is the need to get a deed from the property owners who have been reluctant. She said it is anticipated that the 5 remaining easements may have to be obtained by eminent domain. She said there is a resolution to be adopted and approval is requested for the appointment of Attorney Joshua Efron as Special Counsel to the Town Attorney to handle this matter.

The motion was made by Mr. Marcelle and seconded by Mr. Gordon to approve the appointment of Attorney Joshua Efron, Delmar, New York as Special

Counsel to the Town Attorney to handle the eminent domain procedure. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: None.

- - -

The following resolution was presented for adoption:

RESOLUTION

WHEREAS, the citizens of the Town of Bethlehem have petitioned the Town to construct a sidewalk along Elsmere Avenue between the Delmar By-pass and Norge Road in order to protect children and other pedestrians.

WHEREAS, a public meeting has been conducted; and

WHEREAS, Elsmere Avenue is a very heavily trafficked State highway; and

WHEREAS, the construction of the said sidewalk will materially aid the health, safety and well-being of the residents of the Town of Bethlehem; and

WHEREAS, the said sidewalk will be built within existing sanitary sewer easement and/or within the existing zoning setback requirements; and

Whereas, the Town Board has heretofore authorized the planning, design and construction of the said sidewalk and has requested public cooperation in conveying any necessary easements to be used for sidewalk purposes; and

WHEREAS, of the twenty-six (26) easements necessary to construct the said sidewalk, twenty-one (21) residents have voluntarily conveyed the necessary easements; and

WHEREAS, it is the policy of the Town of Bethlehem to negotiate the conveyance of interests in real property whenever and wherever possible, recognizing that in some instances it may be necessary to resort to the Town's right to exercise its powers of eminent domain to acquire the necessary interests in real property to construct a project for the public use, benefit and purpose;

NOW, THEREFORE, BE IT RESOLVED that the Town Board does hereby determine:

1. That it is necessary to acquire, pursuant to the provisions of the Eminent Domain Procedure Law, those interests in real property which are required for the construction of a sidewalk on Elsmere Avenue between the Delmar By-pass and Norge Road, which have heretofore not been conveyed to the Town of Bethlehem;

2. That the acquisition of those interests in real property is for the public use, benefit or purpose and project of constructing a sidewalk along Elsmere Avenue between the Delmar By-Pass and Norge Road in the Town of Bethlehem;

3. That the location selected by the Town's Commissioner of Public Works is hereby found to be and is the most economical and efficient to accomplish the aforesaid purpose, has heretofore attained full value assessment on all real property tax assessments within the Town; and

4. That the Town of Bethlehem is exempt from compliance with the provision of Article 2, Eminent Domain Procedure Law in that, pursuant to Eminent Domain Procedure Law, Section 206(D), it is the opinion of the Town Board of the Town of Bethlehem, and is hereby so found by said Board, that the acquisition of the necessary interests in real property is de minimis in nature so that the public interest will not be prejudiced by the construction of the project; and be it further

RESOLVED, that, for the purpose of carrying out these determinations, the Supervisor is hereby authorized and directed to proceed in accordance with the appliance provisions of the Eminent Domain Procedure Law to acquire said interests in real property as are necessary for the construction of the said sidewalk as have not been already acquired by negotiation and to enter into and execute such documents as may be necessary to carry out the purposes of this Resolution; and be it further

The foregoing resolution was presented for adoption by Mr. Marcelle and

seconded by Mr. Gordon and passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: None.

The following item was a request from Engineering Services Administrator, Michael Cirillo, for acceptance of deed for the Feeney-Castronuovo Subdivision No. 2. Supervisor Egan noted it is a deed for right-of-way purposes along the southerly side of Orchard Street. She noted it is a fee right-of-way and is a requirement of the final plat approval for the subdivision.

The motion was made by Mr. Lenhardt and seconded by Mr. Gordon to approve the acceptance of a deed for the Feeney-Castronuovo Subdivision No. 2 for right-of-way purposes along the southerly side of Orchard Street, Delmar, as requested by Michael Cirillo, Engineering Services Administrator. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: None.

Following was acknowledgement of the receipt of a grant award from Criminal Justice Records Improvement Program in the amount of \$49,896 to the Bethlehem Police Department. Supervisor Egan said this is just a notice that this grant was received. She said this is a high-tech live scan document computer program for the Police Department. She said it was very competitive noting the Chief and various staff worked very hard to receive this grant. She said the contract has not been received as of this date.

Supervisor Egan asked if there were any other comments on anything this evening. She noted there was time before the public hearing.

Mrs. Capone said Trustco Bank is opening a branch in Slingerlands in the previous post office location. Councilman Lenhardt said he was aware of that. Mrs. Capone asked if they were going to take over the Toll Gate also. Councilman Lenhardt said he did not know indicating he read the minutes of the Planning Board where it was discussed. He said it mentioned a drive-thru and he could not envision how you would put a drive-thru in that location. Supervisor Egan noted they are talking about a one-way on the one side. Councilman Lenhardt said he used to work there and was aware of how narrow it is.

Supervisor Egan said EPA is in holding and the dewatering facility and rails to trails they are waiting for the 3rd appraisal to come back before they can proceed with the grant She said CVS has submitted a plan to take over the Boston Chicken corner and is being reviewed by the Planning Board.

Supervisor Egan noted an invitation has been extended by Mr. Wright of the Elsmere Fire Department for the Town Board Members to march in the dress parade on September 11, 2004 for the Albany County and Hudson-Mohawk Valley Fire Convention. She noted the parade kicks off at 3:00 p.m. She said there is also a memorial service before the parade.

Councilman Plummer said for the record, he was approached by Father Young who owns property on Bridge Street in Selkirk near the Con Rail yard and has been abandoned. He said the property is on the tax rolls and Father Young would like the IDA to look at it in the event some prospects might be interested. He said Father Young wishes to sell the property. He said he thought this might be

considered if some business was looking for land due to it being adjacent to the railroad line. He said it is under the name of Vista Properties and probably about 3 acres of land.

Supervisor Egan said the meeting on the Hudson River hamlet went very good with about 150 people in attendance. She said there was standing room only and noted others in attendance. She said a couple days before information was distributed to property owners in the area. She said they wanted to make sure everyone had notice. She said there were 4 group breakouts with comments, moderators to compile what they liked about the concept, what they did not like and what they would like to see. She said it ran late so the group analysis did not get done but will be done and posted on the website. She said overall it certainly was tolerated with no one seeming to be very upset about it. She said certainly some concerns and questions were raised. She noted they would continue to explore the concept as this process moves forward. She said Monday night is the normal BPAC meeting, September 23 is open space, recreation, trails and the charrette is September 29 and 30. She said it is a 2-day, 2 evening all day workshop on the commercial corridors – Delaware Avenue and Route 9W.

Councilman Plummer asked if the process is pretty much on schedule with Saratoga Associates. Commissioner Leveille said they are close, noting there are a lot of big meetings coming up in the next couple months. He said he thinks within a month it will be determined if it is on schedule. Supervisor Egan said they are no more than a month behind. Commissioner Leveille said they do not want to rush it if it requires a little more time than what was thought. He said there would be public hearings beginning in November just for that purpose.

Supervisor Egan said they are continuing to meet with residents who have called and requested a meeting. She said they have not turned anybody down, noting they have accommodated everybody's needs.

HEARING BEGAN: 6:00 P.M.

SUPERVISOR EGAN: This is a hearing to consider the proposed local law amending the Code of the Town of Bethlehem, Vehicle and Traffic, to permit stop intersections at Thoreau Drive with McCormack Road North, Thoreau Drive at Teasdale Drive, Eliot Drive at Thoreau Drive and Teasdale Drive at Thackeray Drive, all in Slingerlands. Kathy, if you would, read the call of the meeting, please.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Town Board of the Town of Bethlehem on the 8th day of September 2004 at 6:00 p.m. to consider a proposed Local Law amending the Code of the Town of Bethlehem as follows:

AMEND CHAPTER 2129, VEHICLE AND TRAFFIC, Article VI, Section 119-10 Schedule VII, Stop Intersections as follow:

ADD: A stop intersection as follows:

Stop sign on Thoreau Drive at its intersection with McCormack Road North; Stop sign on Thoreau Drive at its intersection with Teasdale Drive; Stop sign on Eliot Drive at its intersection with Thoreau Drive; and Stop sign on Teasdale Drive at its intersection with Thackeray Drive, Slingerlands.

All interested persons and citizens will have an opportunity to be heard at the said hearing.

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who are in need of assistance in order to participate should contact the Town Clerk's office at 439-4955, ext. 183. Advanced notice is required.

BY ORDER OF THE TOWN BOARD

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

TOWN OF BETHLEHEM
KATHLEEN A. NEWKIRK, CMC, RMC
TOWN CLERK

- - -

State of New York)
County of Albany)

LIZA CLINE of the Town of Bethlehem, being duly sworn, says that she is the RECEPTIONIST for THE SPOTLIGHT, a weekly newspaper published in the Town of Bethlehem, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said THE SPOTLIGHT ONCE A WEEK FOR 1 WEEK consecutively, commencing on the 25th day of August 2004.

/s/ Liza Cline

Sworn to before me this 27th day of August 2004.

/s/ Sharon A. Doldo

Notary Public, Albany County

- - -

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

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on Aug. 25, 2004, a Notice of Public Hearing, a copy of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Kathleen A. Newkirk
Town Clerk

Sworn to before me this
1st day of September 2004.

/s/ Catherine T. Picarazzi

Notary Public

- - -

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

- - -

SUPERVISOR EGAN: Thank you. Okay, at this time do we have anyone that would like to speak in regard to this on this public hearing? And, these stop signs are in the Terramere subdivision. Anyone?

Do I have a motion to close the hearing?

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to close the public hearing at 6:03 p.m. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

Town Clerk

Supervisor Egan asked if the Town Board wished to take a vote on the prior public hearing and proposed Local Law.

Councilman Lenhardt commented that he remembers when he was on the

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

Planning Board at least 2 of the signs were part of the planning process.

The motion was made by Mr. Gordon and seconded by Mr. Lenhardt to approve the adoption of Local Law No. 7 of 2004 amending the Code of the Town of Bethlehem, Vehicle and Traffic, Article VI, Section 119-10, Schedule VII, Stop Intersections in the Terramere Subdivision. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to adjourn the regular Town Board meeting at 6:05 p.m. The motion was carried by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

Town Clerk