

TOWN BOARD
APRIL 8, 1992

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

PRESENT: Kenneth J. Ringler, Supervisor
Frederick C. Webster, Councilman
M. Sheila Galvin, Councilwoman
Charles Gunner, Councilman
Sheila Fuller, Councilwoman
Bernard Kaplowitz, Esq., Town Attorney
Kathleen A. Newkirk, Town Clerk

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Supervisor Ringler welcomed everyone to the regular meeting of the Town Board. He noted if anyone has any questions at the end of a discussion of an item if someone has a question, the Board will be happy to entertain the question. He also indicated at the end of the meeting, time permitting, if anyone has anything they wish to bring to the attention of the Board, it can be done at that time.

The Supervisor said the first item on the agenda is a discussion of a proposed Local Law for permitting solid waste management facilities from the Solid Waste Task Force, Mr. Bruce Secor, Chairman. Mr. Ringler turned the meeting over to Mr. Secor for his presentation.

Mr. Secor asked that the Town Clerk read the following memorandum into the record.

March 2, 1992

MEMO TO TOWN BOARD

From: Solid Waste Task Force
Re: Proposed Local Law for "Permitting of Solid Waste Management Facilities"

Attached is a draft of a Town Law for the Permitting of Solid Waste Management Facilities. The Solid Waste Task Force has spent many hours reviewing information provided by the Engineering Consulting firm of Stearns & Wheeler who was retained to provide technical support. Assistant Town Attorney Michael Smith organized the technical material and comments from the Task Force to produce a series of drafts. We thank him for his hard work and timely responses.

Discussion
Proposed
Local Law
"Permitting
of Solid Waste
Management
Facilities"

Many issues were raised with respect to trying to include in this law limits on specific chemicals or compounds or specific pollutants. However, it was stated by both Stearns & Wheeler and by Dr. Holstein (special consultant) that this approach was unadvisable since it would lead us down a path so technically complex and litigious that it could jeopardize any possible successful outcome of our efforts. Therefore, the proposed Town Law contains many new criteria and provisions but does not attempt to set chemical standards for solid waste facilities. This law should be looked at with the idea that it is a first step to gain Town control of solid waste facilities through a formal Town permitting process.

It is the consensus of the Task Force that the draft law be forwarded to the Town Board with the following recommendations:
A.) That a two or three week public comment period be allowed before setting the date for a formal public hearing.
B.) that copies of this draft be circulated to the Building Department, Planning Department, Planning Board and Board of Appeals and other such interested persons or departments.
C.) That copies should be placed on file with the Town Clerk, Library, Highway Department office and Public Works office for public inspection.

A tentative schedule could be for the Town Board to discuss this matter at the March 25th meeting. That would allow 3 weeks for public review and comment before Town Board action to set a public hearing. A possible date for the public hearing could be April 22nd. Final action on the law might be realized by the end of May.

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Mr. Secor indicated there were over 120 pages in the proposed local law. He said he would go over some of the highlights of the proposed law. He said copies are available and there are copies on file in certain offices in Town Hall, as well as in the library, since early March. Basically, he said it is a beginning of a system to bring all solid waste facilities under the control of the Town. Mr. Secor proceeded to review the proposed local law and the procedure for an applicant to follow to obtain a solid waste facility management permit.

Mr. Secor reviewed the definitions and indicated the consultant came up with a lot of information. There was a review of the kinds of solid waste and the classes that certain materials fall into. All of this information is contained in the report along with the standards and requirements in regard to this proposed local law.

Mr. Secor said there are certain things that are important and noted that the regulations set by the Town Board cannot be less than the Federal or State standards. He noted the Town could exceed these if they have a definite reason for local control. He said the Solid Waste Task Force did do this in the various classifications. Mr. Secor addressed the construction standards, operational standards, and monitoring standards also. He said he thought these areas give the Town the best protection. He said if the operation or monitoring is not done according to the operating plan or permit, the Town has the ability to go in and take over the monitoring and charge the operator for the work to bring it into compliance.

Mr. Secor said this will create a system to control any facilities located within the Town. He noted this has been written up so that it is not a burden on the taxpayers, indicating the operator of the facility would pay fees in order to reimburse the Town for any costs incurred. Information has also been included in regard to environmental monitoring, according to Mr. Secor. There is also language in this proposed local law in regard to new technology and if anything new is introduced, it is the responsibility of the operator to install or implement this to keep the facility up-to-date, Mr. Secor said.

Mr. Secor said there are also descriptions in the proposed local law in regard to dust, vapors, and landfill gases and their being measured at the site boundaries. He said another important feature of this proposal is the post-closure monitoring and testing. He said there is also information about bonding or a way for the Town to be sure that the closure and post-closure work is guaranteed and that there is an escrow account or an insurance policy that works.

Mr. Secor said in regard to the monitoring of the material on site, there is a records keeping and tracking situation and also a requirement that there storage is allowed for only a certain period of time. He said this looks at the type and size of the facility proposed.

Mr. Secor said this proposal basically provides a framework to get an applicant before the Town Board and set some minimum standards for them to meet. He said it sets out the type of operational plan that they have to submit and then a monitoring plan on how they are going to make that operational plan.

Supervisor Ringler asked if the Board had any questions. Councilman Webster asked if it was correct that this proposal is

above State standards in all areas. Mr. Secor said in some areas, indicating they looked at what made sense from a local level and not be in conflict with the State. He said in most areas, including side yards, set backs screening and things like that, the standards are set at least as stringent or in most cases more stringent.

Supervisor Ringler asked if there were any other questions. If not, he indicated it would be appropriate to schedule a public hearing for public comment on this proposal. He further noted the proposed local law has been at the Library and has been publicized.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that a public hearing be scheduled for May 13, 1992 at 7:30 p.m. to consider proposed Local Law No. 3 of 1992, Permitting Solid Waste Management Facilities. The motion was passed by the following vote:

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

Noes: None.

Supervisor Ringler thanked Mr. Secor.

Supervisor Ringler said the next item on the agenda was a recommendation from the Solid Waste Task Force regarding options in regard to solid waste management. Mr. Secor asked the Town Clerk to read the introduction from the report by the Solid Waste Task Force for the record.

Discussion
Recommendation
from Solid
Waste Task
Force re:
options to
solid waste
management

MEMORANDUM

TO: Town Board Members
FROM: Solid Waste Task Force
DATE: March 31, 1992

In the fall of 1991, the Solid Waste Task Force issued a broad RFP looking for long-term solid waste management options for the Town. This was an attempt to gather more concrete information about the cost and feasibility of various options and also to begin to develop final recommendations to the Town Board.

Nine responses were received in December 1991. Those with specific options and facilities have been analyzed using a chart which includes eight categories of comparison. We also analyzed two additional options which do not require action from an outside vendor.

A comparison chart plus summary sheet is attached for each of the following:

- a.) Continue with ANSWERS.
- b.) Town of Bethlehem independent action for new sanitary landfill and integrated system.
- c.) Waste Exchange with Eastern Rensselaer County Solid Waste Management Authority (depends on Town of Bethlehem New Sanitary Landfill).
- d.) New Options on Waste - transfer wastes out of Town.
- e.) Energy Answers Corp. - Bask Road Recycling of source separated MSW, C&D Recycling, C&D Landfill, and Yard Waste Composting. Cabbage Island Waste to Energy Facility.
- f.) BFI - transfer wastes out of Town.
- g.) Bedminster Bio-Conversion (co-composting of MSW and sludges).

All analyses and recommendations from the Task Force are based on several assumptions. First, the need to protect human health and safety and the integrity of our environment is of the highest importance. We recognize that all solid waste disposal activities cause some pollution. The proposed local law for permitting solid waste management facilities is designed to complement state and federal regulations and minimize negative

impacts. Any solid waste facilities which Bethlehem hosts will be subject to full review of potential negative health and environmental impacts through the SEQRA process.

Second, the Task Force intends that all current waste reduction and recycling programs be continued. These programs are required by State Law and have been well received by the community. In addition, the Task Force supports expansion of our recycling plans wherever possible. As more markets, MRF's and brokers become established, additional materials should be able to be diverted from the waste stream.

Third, the Task Force recognizes that there are gray areas in the field of solid waste management. It has not been possible for us to make direct comparisons of technologies because of a lack of comparable data. Direct quantitative comparisons of the potential pollution from an incinerator versus potential pollution from either mixed waste composting or land-filling are not available.

Fourth, economic factors are a very real and driving force in solid waste disposal. Because the Town does not control solid waste pickup, the flow of waste will generally follow the path of the lowest tipping fee. Therefore, any plan must not only minimize negative health and environmental impacts, but must also be done at a competitive cost.

With these factors in mind and after the investigation of many different technologies and options, it is the finding of the Solid Waste Task Force that no single technology will solve the solid waste problem. An integrated system of reduction, reuse, recycling and some combination of composting, waste-to-energy, and land-filling will be required to meet the needs of the Town of Bethlehem and the region.

Based on research, field trips, expert presentations, and four years of study, three options are recommended, all of which must be viewed in detail for their health and environmental impacts. It is also expected that any final plan must meet the requirements of our proposed local law regulating solid waste facilities, as well as state and federal regulations.

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Supervisor Ringler suggested Mr. Secor introduce those members of the Solid Waste Task Force in attendance. Mr. Secor noted that he is being put on the spot, recognizing Mr. Bruce Wood, Mr. John Morelli, Mr. Don Stevens, Ms. Kathy Betzhold, Mrs. Lynn Rhodes, Mrs. Liz McCoy, Mr. Louis Dushek, Mr. Dennis Corrigan. Mr. Secor said there were approximately 36 to 40 people and some people have left and some have come. He said there is a core of about 20 people who have remained active over 4 years. He said they all deserve a gold star.

Mr. Secor stated there are three options to be considered in regard to solid waste management and noted there are many appendices. He noted there are copies of the report if anyone wished to have one. He proceeded to outline the options including new Town landfill; Energy Answers Corporation proposal of continued use of the Rapp Road facilities along with a proposed waste-to-energy plant and recycling, C&D recycling/disposal and composting facilities; and an alternative option to haul wastes out of Town. In his presentation Mr. Secor used many overhead projection sheets to show researched information, physical details and recommendations. (Report on file in the Town Clerk's office.)

Mr. Secor also noted that proposed Local Law No. 3 of 1992, Permitting Solid Waste Management Facilities, will provide the Town direct review, approval and monitoring powers for the facilities proposed by EAC both at Cabbage Island and Bask Road. He said this provides continuity with existing solid waste management systems and expands services to the Town. He said waste collection trucks would continue to go to Rapp Road,

utilizing the existing scale house, shredding facility, administrative building, maintenance garage, landfill and other facilities already paid for. There will be some traffic generation in regard to this proposal both to Cabbage Island and Bask Road. Mr. Secor noted a further look should be taken at the traffic generation for the Bask Road facility. He indicated there would also be a host tipping fee estimated at \$2.00 per ton, estimated \$500 to \$650,000. per year plus tax base and jobs. Total estimated annual revenue to be \$1.26 million.

Mr. Secor noted the land on Cabbage Island is located in an industrial zoning district. He noted a change of the permitted uses or zoning district will have to be considered by the Town Board, for this proposal.

Mr. Secor said the third option that is listed as an alternative option, is the proposal to haul waste out of Town. This option, he noted, should be considered in conjunction with an integrated plan for waste reduction, reuse, recycling, composting, waste to energy, and land-filling. He said in order to address all of the waste streams, this option may require construction of a truck transfer station along with convenient facilities for residential recycling, household hazardous waste collection. He also commented a yard composting facility may also be required. He said this option does not require the siting of any major solid waste disposal facilities, except for yard waste, however it offers the lowest level of local control for disposing methods, tipping fees or long term reliability.

Mr. Secor noted contracting for such a service is also complicated by the fact that Bethlehem does not have direct control over waste collection or location of final disposal. He further stated again, the lowest tipping fee might be the controlling factor. Mr. Secor said the Task Force recommends this option continue to be explored as an alternative.

Mr. Secor noted the Solid Waste Task Force was established in recognition of the volatility of the solid waste management issues and need to publicly explore possible solutions by getting residents involved and by continuing to keep the discussions as open and public as possible. The report notes only through such a process with widespread community involvement can a solid waste management program be successfully implemented. With this in mind, the Solid Waste Task Force suggests that the Town Board authorize a Town-wide informational mailing be prepared which summarizes the work of the Task Force and a series of community informational meetings be scheduled throughout the Town.

Mr. Secor said the Task Force realizes there is no simple solution, there is no environmentally benign solution. He said solid waste management presents hard choices.

Mr. Secor said one other thing came up at the last meeting that he indicated would be brought up and that is in conjunction with this, there is still the concern of an independent landfill being moved into the unzoned area in Bethlehem. He said one of the other recommendations to the Board would be to consider what either zoning tool or prohibition that could be enacted which would permit control over this type situation. He said even with the new solid waste law, it does not prohibit things, it manages and brings it before the Town for permits. He said the land use decisions are still something the Town Board should look into.

Supervisor Ringler asked with regard to that, he concurs and said even though there are controls within the current code and so forth which seems to give the Town some control on somebody's ability to do this, the problem with the private enterprise with the Metz landfill was witnessed by all. He noted there was a DEC permit given. He said one of the strongest things any municipality can have in place is zoning as he understands it, however counsel was welcome to comment on this. The Supervisor said he strongly recommends the Town Attorney, if he feels he can do this, put together a recommendation to the Board which would change the zoning to protect those unzoned areas from any

landfills other than one that the Town might have to build. He said he feels no outside agency should be able to come in and build one in the Town. He asked Attorney Kaplowitz to comment on this.

Attorney Kaplowitz said he cannot say yes or no, unfortunately, stating the law is not clear. He said 20 to 30 years ago, there were a number of towns that started to prohibit certain kinds of uses. He mentioned the location of trailer parks. He said the court decisions all went the other way, saying these are not really offensive uses and there must be a place found for them in your town, someplace where they fit. He said the general feeling and the general ruling for a long time was you cannot exclude something entirely unless perhaps it was really noxious. Since this time, Attorney Kaplowitz noted there have been some other decisions that have eroded that rule somewhat. He said there must be a very, very good reason. He said he thinks something could and should put together something, whether or not it is successful in the long run. He said if it is the decision of the Board, something could be put together just prohibiting landfills throughout the entire Town and hope for the best. Attorney Kaplowitz said he wanted to be clear that there are no guarantees because the law is not really clear at this point.

Supervisor Ringler said unless anyone on the Board had any comments or questions, he would ask Mr. Kaplowitz to research this and provide a recommendation on possible language that might be able to be added to the code. He asked if there were any objections to this. There were none. The Supervisor then asked Mr. Secor if he had any additional comments.

Mr. Secor said no but as far as the implementation of the recommendation of the Solid Waste Task Force, they had hoped to be to the Board 6 or 8 weeks ago with this document. He said they it to the Board and they are recommending a referendum be held on the issue, basically to find out if this is an option. He said there is no sense in talking and talking, either it is an option or it is not an option. He said the law does allow some very specific things to go to referendum. Mr. Secor said Attorney Michael Smith has looked into this and it appears that there must be a window of 60 to 75 days -- not less than 60 days, not more than 75 days -- from the date of action by the Board or motion by the Board to hold a referendum. He further noted he thought it unwise to hold a referendum in July or August when half the community is away on vacation. If this is held off until October or November, by then Mr. Secor said -- since again this is being viewed as a competing proposal to the Green Island proposal to continue to use the facilities that are available -- this option may disappear in 6 or 8 months. He said if Green Island gets done, the comment was made in the report that we do not need 2, and so it is a matter of timeliness in getting this and getting information out.

Mr. Secor said the proposal calls for informational meetings with one being a forum at the Town Hall presenting both sides of the issue and type of facility being discussed and then an informed vote should be obtained. He said they feel this should be done before the vacation schedule starts.

Supervisor Ringler asked if there were any questions or comments from the Board. Councilwoman Galvin commented that Mr. Secor said the Task Force views this as a competing proposal to the Green Island proposal, is this the position of the Task Force that the Town should be, in effect, lobbying to get this type of facility in the Town or how is the word competing being used. Mr. Secor said in other words, it is a majority view that he would talk of, in the majority view a waste-to-energy or this type of facility is going to be needed in the region and given that, the best available technology should be looked at and at a price which is at the lowest for all the people. He said as they went through this identifying the various criteria, economic impacts, whatever, it appeared from their analysis that reusing a bunch of facilities that were built for millions and millions of

dollars on Rapp Road, should be looked at. The consensus was that this should be given consideration.

Councilwoman Galvin further asked in regard to the Rapp Road facility, what is the right of the proposers to continue the use of the facility. Mr. Secor said it is either a lease or a management agreement. Mr. Tom Julian said it is a contract. Ms. Galvin asked how long the contract was for. Mr. Julian said he could not say but it has been operating since 1986. He said as was stated earlier, there is a proposal out by the City and the State to sell the whole system.

Councilwoman Galvin asked if that facility is sold, what the provisions are in their contract to cover alternative use. Mr. Julian said it is uncertain now if it is sold to another party or the State and City decides not to sell. This proposal would become a self-contained program, according to Mr. Julian. Ms. Galvin asked what he meant by self-contained. Mr. Julian said the processing is done right at the site at the Port of Albany. Ms. Galvin asked if this would require additional facilities and additional costs. Mr. Julian said this would be no additional facilities in the Town of Bethlehem. Ms. Galvin asked where they would be. Mr. Julian said the landfill would be elsewhere. Supervisor Ringler interjected he thought Ms. Galvin was referring to the processing plant. Mr. Julian said the processing will be done within the new resource recovery facility. He said it would be in a tipping hall, in an enclosed concrete bunker. Ms. Galvin asked how this would alter the facility as proposed. Mr. Julian said it would be more expensive and the processing would be done inside the building that would have to be added to the design. Ms. Galvin asked how much larger the facility would be in square footage. Mr. Julian said he could not say, he would have to talk to the engineers who design it. He said he would say it could be done inside the Town Hall building.

Councilwoman Galvin again questioned the contract held with the Rapp Road facility and how long it is or what the terms are in the event the facility is sold. Mr. Julian said he did not know. He said he can find that out, indicating again it has been operating since 1986. Ms. Galvin said it would be a very important thing to know this information to ascertain how secure it is in the event the entire facility was sold. She said she meant how long they would have to make the conversion. Mr. Julian said he could have their attorneys draw up a synopsis of that. Ms. Galvin said she would prefer to see the original document. Mr. Julian said it would be attached to that.

Councilwoman Galvin said she had another question, in the proposal, she noticed in the flow chart there was an indication of trucking continuing to go to the ANSWERS project, asking if there would be a division of the flow from the Rapp Road facility or wherever both to the ANSWERS facility downtown and to Cabbage Island or would it all be diverted to Cabbage Island. Mr. Julian said it is uncertain at this point because the State of New York is not real clear as to whether they are going to continue burning refuse at Sheridan Avenue. He said if they decide to convert that facility to gas fired plant, then no longer would waste go to Sheridan Avenue. Ms. Galvin asked if it was their proposal that if that were to happen the material would then be diverted to Cabbage Island. Mr. Julian said that would all be the ANSWERS community waste shed. Ms. Galvin thanked Mr. Julian. She said she would like to see the original of the contract. Mr. Julian said he could provide that.

Supervisor Ringler asked if there were any other questions. Councilman Webster said he assumed the additional space that was mentioned would be about the size of the tipping floor at SEMASS. Mr. Julian said the tipping floor is separate from the processing facility. He said what they have proposed is using the processing facility at Rapp Road that exists. Mr. Webster asked if that were to disappear what would happen. Mr. Julian said then the only thing that would be added is room for the

shredders where the processing would be done. He said the tipping area would not necessarily have to be enlarged.

Supervisor Ringler asked if there were any other questions. Councilwoman Fuller said she had a question on the referendum. She inquired about the referendum and whether or not it is legal and binding. Attorney Smith said in addressing the question of binding us, the referendum that is drafted is legal and he believes it to be binding. Mr. Smith said Mr. Julian's company has a particular proposal, this referendum is not geared necessarily to that proposal nor does this referendum constitute an adoption by this Town of this proposal. The answer, Mr. Smith said, is yes, the referendum in his opinion meets Section 81. He said there are very limited opportunities to have permissive referenda there but it is very, very limited. Secondly, Mr. Smith said it is binding in that it establishes a direction, it establishes a policy. He said the implementation of that policy, however -- looking at this particular route, would there be the siting in the Town by a private entity of this particular type of facility, the implementation would still be a matter of Town Law and a contract. Mr. Smith said these are not specifically addressed by the referendum. He said this is not an advisory opinion because that would be clearly illegal. This would determine a direction, Mr. Smith noted, a policy. He said implementation would then be a matter of substantive action by the Town. Mr. Smith said the answer is that it is binding but it is not binding to this particular contract or this particular proposal. He further noted the referendum does not address the EAC proposal. He said it addresses the concept more generically but within the framework of the statute.

Councilwoman Fuller said she understands this but if the community votes yes, in favor of this, does this mean they expect the Town Board to go along with this waste-to-energy plant and on the other side of the coin, if the community votes it down, does that mean incineration may never be discussed again in this Town. Mr. Smith said he wished to answer that in two fashions. Yes means that the Board would be given a clear signal as to the direction, the policy, Mr. Smith noted and said the implementation of that policy would require additional Town action with additional yes or no answers having to be determined. He said it is possible within the context of this referendum for there to be a determination by the Town Board that the ultimate needs and methods of implementing the policy are not financially or legally feasible. He said this is what he means by this particular contract or agreement not being a part of the referendum. He said she asked if the no vote binds the Town Board forever, in his opinion, it is a clear statement of the mission, the policy, and it would. Mr. Smith asked if there could be a change by subsequent action under particular circumstances that he cannot envision now, he said he cannot address this.

Councilwoman Fuller asked if she understood, the advantage of going to a referendum is to determine, if in fact, this Town should consider studying the waste-to-energy plant any further. Mr. Smith said this was correct. He said that is the decision, the Task Force decision is not a legally required one. He said if you look at the statute, there are certain items that are required to be presented by referendum. He said this is not one of them. He said this body could make this determination completely unfettered by any need for a referendum. He said this is something the Town Board can do on its own. He said the Task Force recommendation, however, was to get a sense of the Town prior to action by the Town Board. He said the Task Force recommendation obviously does not bind, this Board can make the determination today.

Councilwoman Galvin followed up on Mrs. Fuller question about the way in which the referendum is drafted, she noticed it is limited to construction by a private person or entity, asking in effect, this has narrowed the scope of the referendum and further asking if this was Mr. Smith's legal opinion that this comes within the scope of a permissive referendum. Mr. Smith

said it is, indicating he was very clear in tracking the goal of the Task Force which is there is a proposed option involving EAC; this option has some desirability to some people. He said we, as a Town, to construction our own waste-to-energy within the Town if we wished to. He said this referendum, however, addresses the existence of a concept of EAC without binding us at this time to the particular contract. He said the sense of the Task Force, is that the cost of the Town constructing such a plant would be prohibitive.

Councilwoman Fuller said a question has been raised also on the options going on the referendum. She asked him to clarify that. Mr. Smith said he thinks the question has been posed by a number of people, why can't we have multiple choice, a, b, c, d -- like a cafeteria type thing. He said there is a facial desirability for that. He said he has two problems with that. He said first, in his opinion, other than the single proposition format is that it would be illegal and secondly, more problematic is that options other than those specifically addressed in Section 81 cannot be the subject of a referendum and this particular disposal methodology by incineration is one of the items in the statute. If it were not for this statute, for example, Mr. Smith said he and Mr. Secor discussed whether they could put a proposition together concerning constructing our own landfill. He said Section 81 does not address landfills at all and under those circumstances it is his best opinion, that that proposition would be deemed advisory and would be not binding and illegal. He said that is a problem because the easy way out would be to have a multiple choice proposition but he believes it is clearly illegal.

Supervisor Ringler asked if there were any other questions. Councilwoman Galvin said this one is probably better addressed to Mr. Secor. She asked Mr. Secor if he knows what the cost of a referendum on this would be. Mr. Secor stated he really did not know. Supervisor Ringler noted this would include the cost of the polling inspectors for a day, even though not all 4 would be needed. The Town Clerk noted two election inspectors could man each poll but you would also have the cost of the machine set-up. Ms. Newkirk, Town Clerk, indicated the estimated amount of the primary was around \$3,000. She said it would be somewhere in this neighborhood. Mr. Smith noted basically the referendum is governed under the Election Law. He said once you follow Section 81, it falls under a special election. Ms. Newkirk indicated this was correct and that representation of each political is required for conduct of elections.

Supervisor Ringler asked if there were any other questions. He asked if anyone in the audience had any questions. Mrs. Liz McCoy said she was listening to the discussion pertaining to the referendum and said she is a member of the Task Force. She said she has spent many, many hours looking at this issue and she thinks that as a participant of the Task Force, they did a very good job on some very hard issues especially for the Town of Bethlehem.

Ms. McCoy further said she has a major concern for the language being used at this particular point, special election as opposed to referendum. She said the Task Force used the term referendum to get a sense of the community's feelings. She said she looked at the difference between a permissive referendum and a special election and she said her concern is what the difference is between the two. The first time she saw the word "special election" was when she got a copy of the proposed resolution, indicating it was yesterday. The language that was used in the Task Force was a referendum and their belief was they wanted to get a sense of the community. She noted she is not an attorney but she does have access to the laws and she looked at the difference between a permissive referendum and a special election and was concerned that she would like to have tonight addressed the difference between the two because she thinks that the Task Force, in evaluating the options for the Town, emphasized at least five critical assumptions in deciding that this was going to be an option put before the Board. One of

them, according to Ms. McCoy, was EAC's purchase of the shredder and the landfill; that they would not have a regional landfill; that they would not have a regional C&D dump; that if an incinerator was going to be built here it would be on Cabbage Island, which she would have to say -- if you look at page 15 of the permitting standards, there is a minimum acreage size of 35 acres and this is a 17 acre site; and that, finally, this proposed incinerator would not be in addition to a Green Island incinerator. So her question was, assuming the outcome of the special election is no, then it seems to her, based on the language here under Purpose "The very purpose of the provisions of this section... is to allow the Town electors to decide a certain issue, irrespective of the Town Board's feelings on the matter..." the Town cannot revisit. If the special election resulted in yes, her reading is that this binds the Town to implement an incinerator and it can choose a different company, a different site, but that it no longer has an ability to say no to waste to energy. The Task Force, according to Ms. McCoy, made a lot of real important assumptions that some felt, if these assumptions were not there, those assumptions were not there, they certainly would not go for it so if this is an irrevocable action... Attorney Smith said he would address a couple of the issues, first is the anticipation of the Task Force. He said there is no question that the Task Force, would, wanted and would like "a referendum" as that term is used generically. He further said in some states you can do it. In some states where there are different constitutional provisions, with different legal provisions, Mr. Smith explained, you can get basically the advice of the electorate by just meeting certain requirements. Mr. Smith said NYS is not, at present, one of those states. He said Section 81 of the Town Law has been ruled by both the Attorney General's Office and the Comptroller's Opinions that address it, most recently in 1983 Court of Appeals decision into the Green matter that you cannot have a merely advisory opinion and there must be a statutory basis. He continued that when he met with Mr. Secor to address the Task Force concerns and the various 5 levels of things they would like to see on the ballot, it was his opinion that Section 81 limits very, very specifically the items that can be put to referendum. He said the difference between the special election and the referendum is that referendum used generically does not exist in NYS and under Article VII of the Town Law which is the permissive referendum section, you cannot read that section standing alone because it has been held to specifically relate to subjects under Article VI where the Town itself does not seek the referendum. He said Article VII is an enabling and procedural statute that picks up on the language under Section 81 which says the Town on its own motion, i.e. resolution or by petition. He said VII in itself does not allow for the kind of referendum that you and he believes the Task Force would want. He said it does not expand the ability to get an advisory opinion.

Mr. Smith said in terms of the binding effect, the language which was sited, does not address the opinion he has given. He said he was not going to quarrel with the opinion that a no vote would be particularly binding, all he said was that he cannot envision all of the circumstances under which the issued might be revisited. He further said his opinion is as Mrs. McCoy said, the no vote would be binding. He said if the vote is a yes and is it determinative of the fact that once that sense of the community, that mission, that goal, is established, must the Town without qualification enter into such an agreement, Mr. Smith said in his opinion, no because the Town has not divested itself of both the legal responsibility and this Board's responsibility to determine and implement whatever that mission is either by way of law or contract. Mr. Smith noted he does not foresee, in light of information he has, that DEC would locate two incinerators in this region. He said again, this is only his personal opinion and it is read on what he sees. He said it is very clear to him that Region 3 and DEC statewide has a regional approach, regional agenda, not because they have adopted it but because they are required by the statutes in connection with the State-wide waste management plans to have a regional approach. He said this is the basis for his concern as to whether they can

ever get DEC to approve a landfill that is only within the Town. He said he is concerned about this.

Mr. Smith said that in his opinion, the Town Board by this referendum would not be precluded from making the business judgement decision that once Green Island gets the BFI plant that it would not in that a contract. He said if Energy Answers or whoever else wants to build on Cabbage Island, cannot get a DEC permit, they are done. He said the Town would not bind the Town. He said the Town would also, in his opinion, as a Town not then be bound into a situation where we would lose all our discretion in terms of the ultimate implementing contract. He said the Town would not be forced then to buy into whatever EAC or any other vendor would propose. He said the Town would still have the legal authority, the legal responsibility and the last word whether to implement, despite the binding nature of the resolution.

Mr. Smith said even a yes vote, there could be legal, practical, regulatory impediments to the Town entering into a contractual arrangement. He said this is the best he can give in the way of an opinion. He said in terms of the referendum, special election issue, it is a very common misconception and one in which he was held to do the indepth research here he was forced to do. He said the Board cannot just get an advisory opinion. He said if the Town could, then maybe the Town could have this cafeteria or laundry list type approach.

Mr. Smith mentioned why the burn plant on the referendum, in his opinion, it is very clear in Section 81 that the disposal methodologies listed are very, very specific and the only one of the options proposed by the Task Force that falls within Section 81 is disposal by incineration. He stated he views Section 81 as extremely limiting as to what can be put on the ballot and what cannot be put on.

Supervisor Ringler asked if there were any other questions. Mr. Sherwood Davies said in listening to the presentation, he thinks it important to call it what it should be called and he said it is really an incinerator for the purpose of taking care of municipal solid waste and the by-product is the production of a little energy. He said he does not believe it should be confused by the words waste-to-energy. He said we are not converting waste to energy. He said we still have a lot of by-products.

Mr. Davies said in regards to a referendum, he believes that if the Town Board supports a referendum, that they likewise have a serious obligation that we have an informed electorate. He suggested that the Board provide some mechanism to discuss the risk of the facility, the benefit and the cost. He said he is not seeing anything that covers the situation in terms of the report that was just given. He said lastly, whether the plant is in Green Island or up-river, he believes there must be some discussion of the emissions from a plant of this type.

Supervisor Ringler said he concurs and said as Mr. Secor has suggested, there be forums, in addition to one where the Town can bring in people on both sides of this issue, to discuss pros, cons and educate the residents. He asked if anyone else wished to speak.

Mr. Lou Neri, member of CLAWS organization in the southern part of the Town. He said his questions go to Mr. Secor, in regard to the EAC plant and the mention that it is predicated on the continuation of the Rapp Road existing facility. Mr. Secor said that is part of it. Mr. Neri said 6 months ago by George Nealand and his member of ANSWERS that they were in big trouble and they had to shut that down in 6 years. He asked if this has changed. Mr. Secor commented Mr. Neri was confusing facilities. Mr. Neri noted it was his understanding that the purpose of siting the regional landfill in the southern part, the 9 sites here and 3 in Bethlehem was that Rapp Road was running out of its capacity. Mr. Secor said there are 3 separate

facilities. He said there is the Rapp Road shredding facility, the Rapp Road landfill and the OGS facility downtown which was designed, run, operated by the State of New York. The facility in downtown Albany is projected to be closed in 1995, according to Mr. Secor and he indicated the landfill at Rapp Road that has had the expansion was projected to have a 3 to 6 year life depending upon the rate materials went in there. Mr. Secor said even in the solid waste master plan that the City has now adopted, their plan is to have the shredding facility running and all the garbage trucks will continue to go to Rapp Road, the material would be shredded and other items taken out and they would prewet the material and take it to a landfill to do biostabilization.

Mr. Neri asked where the disposal waste will go after the Rapp Road facility is closed. Mr. Secor said in the statement, the EAC proposal differs from the solid waste management plan from the City. He said the EAC proposal is talking about a much better balance of waste coming in to what is incinerated and what is landfilled. Mr. Secor said the majority of what comes in now goes right to the landfill and the plan is to balance this to be shipped to other locations. Mr. Neri also asked if it was not true that the Solid Waste Task Force will also ask them to sign some type of contract in regard to no other siting of a landfill will be made in Bethlehem. Mr. Secor said this was correct and noted a landfill space is always required, no matter what scenario you follow. He said the question comes in as to how much landfill space and how much are you going to put in there. Mr. Neri asked if you understood this to mean that it only refers to the siting of a regional landfill in the Town of Bethlehem but leaves this open to other communities in the Capital District. Mr. Secor said or some other permanent facility, indicating we have been approached from Pennsylvania. He further said we have been approached from different places where there is space available.

Mr. Neri asked Mr. Secor if, to the best of his knowledge, isn't the siting process with ANSWERS still on going. Mr. Secor agreed it is and that there is no question about that. Mr. Neri asked if this was a consideration for the Task Force. Mr. Secor said they were aware of that. He said they have people who go to the monthly meetings at ANSWERS and report back to the Task Force.

Mr. Neri said he had one other question. He said since there is a Green Island proposal already in existence and since we are a member of ANSWERS, he supposes it is pretty logical to assume that if Green Island goes into effect, ANSWERS is probably going to take its garbage to Green Island, why are we set ourselves up for a competition between Bethlehem and Green Island, when in fact all of the waste is controlled by ANSWERS. Mr. Secor said again, the competing proposals is on a regional basis, what is the best cost available to all the consumers. He noted some of the questions are: do you reuse a bunch of facilities or do you go and use something different. Mr. Secor said he does not know what the mixture will be from Green Island but he said the whole system that we live in is based on competition. He said the Task Force thought is that if there is going to be competition, we should be upfront. He said the SEQR process requires that you look at alternatives and if there are no alternatives out there, they can simply sit back and say there isn't anything else. He said this was their approach.

Mr. Neri asked, in effect, wasn't EAC one of the competitors at Green Island that did not win the ultimate bid. Mr. Secor said he believed they were early on interested. Mr. Julian said they were. Mr. Neri said basically, what has been done, is give EAC another shot at competing with Green Island. Mr. Secor said they have tried to explain the reasons for that. Supervisor Ringler said if this goes ahead, if the residents decide they want to pursue this, then this will be viewed in the context by DEC of an environmental process as opposed to a bidding war within one community which could very well affect the tipping fees drastically in this area.

Mr. Neri said in essence, we are still setting up a competition between EAC, even though the referendum has nothing to do with EAC, although there is no one else proposing incineration. He said we still are, providing a basis for this competition. Mr. Secor indicated yes, it was.

Supervisor Ringler asked if there were any other questions. Mr. George Kornco, Halter Road, Glenmont said he has no question. He wished to bring up a couple points. He said he is in no position to judge the Task Force but he does know Mr. Secor a little bit. He said he is very disturbed by total neglect of loud and clear opposition to incineration in Bethlehem that this Town is well aware of. More disturbing to Mr. Kornco is Mr. Secor's total disregard for the neighborhood between Corning Hill right down to Ni Mo. He said this is directly impacted by noise, smell, and 200 feet of stack of this incinerator, not to mention any health consideration. He said he did not see any in the presentation. Mr. Kornco next addressed the issue of the volume of garbage and the monies collected.

Mr. Kornco asked the Board to postpone any kind of decision to hold any kind of referendum on the subject until the Board has a complete study, clearly documenting the impacts of incineration, all of them.

Mr. Kornco thanked the Board. Supervisor Ringler thanked Mr. Kornco and asked if anyone else wished to speak. Mr. John LaForte next spoke, indicating he would not have any problem with a burn plant several years ago but he thinks that a referendum now might be ill advised because if the Board is looking for a political answer as to whether a burn plant would be acceptable by the Townsfolk, you could probably get an accurate picture of that with a survey. He said we should really see how the Cohoes situation plays out before the Town starts to offer the Town as a site for a burn plant. He said he has not heard Wilton mentioned but not too many months ago, he read an article in the newspaper that the Wilton burn plant was suffering from lack of refuse to burn. He asked if Mr. Secor has researched this but obviously if they are looking for refuse to burn, this should be one place to consider sending it. He further said of the options presented, the first option a Town landfill, should be about the highest priority. He said this probably should have been done 10 years ago when the question came up of joining ANSWERS. He said in the mean time, Rensselaer County is looking to close their landfill and they are offering cut rate prices to fill their landfill before they have to close it up.

Supervisor Ringler asked if Mr. Secor wished to respond. Mr. Secor said he wished to just respond in regard to the article in the newspaper. He said the information he has been able to get, when this was designed it was 3 counties involved, one county dropped out and from the information the problem in that area is price. He said when they designed that plant, Troy was at \$110. per ton, Colonie was at \$65 or \$70 per ton and \$135. for mixed loads. He said both Colonie and Troy are down to \$55. per ton. Mr. Secor said when we implemented in Bethlehem, right after processing of recyclables, we added a 50 cent per ton surcharge on our waste to help pay for the billing costs of going to ANSWERS and doing the other things. He said we have lost 20 percent of our waste overnight. He said it is simplistic to look at a particular problem without looking at the whole area. He said there is a phenomena going on right now with cheap landfill space as Mr. LaForte has mentioned and within 2 to 5 years that is going to level off and be back facing the thing again. Mr. LaForte asked what Mr. Secor said about Wilton. Mr. Secor said this is the Hudson Falls, Washington County location.

Supervisor Ringler asked if anyone else wished to speak. Mr. John Thomas said he just wanted to make a brief statement. He said he thinks the Task Force should be commended for recommending the idea of having a referendum. He said everyone has a right to have a say in these types of things in government. He said no one mentioned the Town Planning Survey which came out last August and it is clear in this report that 50

percent of the people of the Town of Bethlehem support waste energy. He said 50 percent is in favor and his viewpoint is also to support this. Mr. Thomas said postponing this referendum would be ill advised and he feels the people should be given the opportunity to vote.

Mr. Thomas said his question is to the legal people, did they talk to local governments about a vote that took place out in Alabama, NY in regard to a waste energy facility and for the record, 70 percent of the town's people supported waste-to-energy. Mr. Smith said his simple answer is that it was not challenged. Mr. Thomas said he thinks that is a point that should be brought out here to the legal minds here and to the Board people. He said there was a referendum held on a waste-to-energy plant last year and it was not challenged. Mr. Smith said he did not think any legal significance could be attached to this. Mr. Thomas said he is simply saying there is a precedent and there was no site in mind, there is not even a decision on this matter. Mr. Thomas thanked the Board.

Supervisor Ringler asked if there were any other questions. He asked for the Board's thoughts on this. He also asked Mr. Smith about the window, he thought he remembered 60 or 70 days from when a motion is passed by when you have to have the referendum. Mr. Smith said this is in the Election Law and this is correct. He said basically if a resolution to put a proposition before the electorate was passed at this meeting, 60 to 75 days from today the election would have to be held. He said that would put the date in June.

Supervisor Ringler asked for comments. He said if the Town wants to have a referendum based upon what Mr. Smith had suggested as the law, the time frame and so forth, the date of June 18, 1992 would be allowed. He said in the mean time, as one gentleman said, informational meetings and a forum should be held by the Solid Waste Task Force. Councilwoman Galvin said when we are talking about public meetings and fully discussing matters, she thinks there should be full briefing of the public and full information provided. She said she feels there were holes in some of the information.

Councilman Webster asked if this was prior to school being let out and most of the people away on vacation. Supervisor Ringler said it would be. Councilman Gunner suggested other calendars in the community be checked also.

The motion was made by Mrs. Fuller and seconded by Mr. Webster that a Special Election be held on June 18, 1992.

Mr. Andy Pludrynski asked about the energy that the plant will be producing and what the bulk of the energy will be going toward. Supervisor Ringler said he thinks the specifics of this will come out later but he noted they usually enter into a contract with a utility firm either Niagara Mohawk or some entity like this to put it back into the system. Supervisor Ringler asked Mr. Julian if this was correct and he concurred. Mr. Julian said the electricity that would be produced will be sold to a utility. Mr. Pludrynski said he thinks the referendum is great that the Town will get a say in it. He said if the Board passes this without going the Town the Board is asking for assassination after homestead.

Supervisor Ringler asked for a vote on the previous motion. The motion was passed by the following vote:

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

Mr. Louis Dushek said he is a resident since 1950. He said he read just recently that NYS just recently cancelled its agreement with Quebec Hydro to purchase electricity because they did not feel they need the electricity to supplement the more efficient conservation system we have at the present time.

He said none of these power plants have any agreements with Niagara Mohawk to buy the power. He said if we are talking about waste-to-energy, we are going to end up paying a lot more to dispose of our solid waste than we are being told by way of burning systems. He said nobody has been talking about composting to any great extent because the orders for burning have come from Washington, DC, Department of Environmental Resources and they give the orders to Albany and the management of these burn plants is set up by the State. Mr. Dushek said every community will be forced to close down their landfills but by the same token at the present time, they are building very big pollution systems with these large landfills because they keep on emitting pollutants and they will for many years. He said when you have the burning systems, you are putting an end product out into the air which is polluting the environment more and we are not doing any conservation. He said he would like to see more effort put into biodegradable organic matter applied to land to produce forests or agricultural products. He said put something into the economic cycle, noting we are not thinking enough and not using the information that Cornell could supply and yet a lot of money is being paid to take care of something that could be done for less money and produce something for commerce.

Supervisor Ringler thanked Mr. Dushek. The referendum will be held on June 18 and the specific referendum proposition and the times and places of voting at a later date. He said this had to be done 20 days prior to the Special Election. Mr. Smith asked if the Board wanted to put the proposition on the record. Supervisor Ringler asked if that has to be done at this point or when the next action is taken. Mr. Smith recommended the language be done at this time.

It is resolved that the Town of Bethlehem shall submit the following proposition to electorate at a special election to be held on June 18, 1992.

Shall the Town of Bethlehem as part of its waste management plan provide for the disposition of garbage, ashes, rubbish and other solid waste matter collected or generated within the Town by the disposition of such solid waste by means of a regional waste to energy incinerator plant to be constructed, by a private person or entity, within the Town of Bethlehem.

 Councilwoman Galvin said there were a couple of questions. Councilwoman Fuller asked in the referendum the wording within the Town and the very next sentence the disposition of such waste by means of a regional waste... Mr. Smith said that was correct, noting it reflects the realities of the proposal, the EAC concept which is a regional concept. Mrs. Fuller asked if this was misleading to the people. Mr. Smith said it is not, he said without the regional reference it would be misleading and that is why it was changed. He said the EAC concept is clearly more than just the Town of Bethlehem. Mr. Smith said this place will take in solid waste from communities other than ourselves, this is known from their proposal. He said this needs to be stated out there because this may be an issue the electorate will want to consider. Mrs. Fuller asked why within the Town is being specified. Mr. Smith said because of the fact of the matter that it will be sited and operated within the Town, otherwise the Town would not have to even consider this.

Councilwoman Galvin said continuing along the same line, asked if it was his opinion that the Town Board can put this type of resolution out prior to any action being taken on the proposed local law on the permitting of solid waste management facilities. Mr. Smith said absolutely. He said any entity that subsequently contracts with the Town as a result of this referendum would be subject by the local law in the event it is implemented. Ms. Galvin said her problem is with no local law being implemented at this time and with the way the local law reads at the present time, we are prohibiting the importation of garbage into the Town. Mr. Smith said the prohibition of garbage

into the Town already exists in the Town Code. He said that would be an issue that would have to be addressed at the implementation stage. Ms. Galvin said she has a problem with the concept of voting on a resolution that involves the importation of garbage when we currently have a local law that prohibits it. Mr. Smith said the resolution does not in any way address the importation of garbage, noting that what it does, however, by using the modifying term regional, it lets the electorate know what the intentions of EAC are. Mr. Smith further stated this does not in any way specifically address importation.

Mr. Secor added that the importation statute being discussed says two things. He said it says it prohibits the importation except as otherwise contracted for by the Town. He said there is no conflict here, whatsoever. He said this involves a contract for that particular item. Mr. Smith said this would not in any way affect the current Town Code ban on importation. He said he does not see this in any way being delayed by the proposed Article 4.

Supervisor Ringler asked if the Board had any problem to leaving this as part of the motion. The Board did not have any objection. Supervisor Ringler thanked Mr. Secor again and extended great thanks to the Solid Waste Task Force. He noted their efforts are most appreciated. He said this has been a long process and it is not over with yet. He said there is a long way to go in addressing solid waste but together as a community and the referendum, he thinks, will make our community point us in the right direction and make very difficult choices.

Approve
Richard Webster's
Attendance -
Spring Seminar
NYS Municipal
Purchasing
Officials

Supervisor Ringler said the following item was a request from Judith E. Kehoe, CPA, Comptroller, for approval of Richard Webster at the 14th annual spring seminar of the NYS Municipal Purchasing Officials.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that Richard Webster, be and he hereby is authorized to attend the NYS Municipal Purchasing Officials 14th Annual Spring Seminar to be held May 13-15, 1992 at Saratoga Springs, NY with registration fee paid. The motion was passed by the following vote:

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

Acknowledge Receipt
Conditional
Approval of
Final Plat No. 137-CF,
Crossroads Subdiv.

The Supervisor said the next item is acknowledgement of receipt of Certificate of Conditional Approval of Final Plat No. 137-CF, Crossroads Subdivision for information purposes.

Approve
Voting Machine
Display
and
Election
Inspectors

Supervisor Ringler said the following resolution was offered for adoption approving the voting machine display.

RESOLVED, that in accordance with Election Law Article 7, Section 7-130, the date of April 2, 1992 between the hours of 9:00 a.m. and 2:00 p.m. was set whereby a voting machine showing the candidates to be voted on at the Spring Primary Election, April 7, 1992, was exhibited in Room 106 at the Town Hall, 445 Delaware Avenue, Delmar, NY and

BE IT FURTHER RESOLVED, that the following persons served as Election Inspectors during the hours the voting machine was on display, April 2, 1992 and that they be compensated at the rate of \$6.25 per hour:

Sharon Ornoski
19 Holbrook Way
Delmar, NY 12054

Republican

Jane Felgentreff
14 Hudson Avenue
Delmar, NY 12054

Democrat

The resolution was adopted by the following vote:

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

Noes: None.

Supervisor Ringler said the next item is a request to consider adoption of Purchasing Procedures for the Town, submitted by Judith Kehoe, CPA, Comptroller.

Councilwoman Galvin noted on page 2, item C under the RFP awards are to be made by an evaluation committee. Supervisor Ringler noted this should read Town Board and indicated this will be corrected. Ms. Galvin said on page 3 under Emergency Purchases, in the third and fourth paragraphs, the statement that when possible it is a good practice for the Town Board to adopt a resolution declaring an emergency, etc., she would like to see some provision if for some reason time is of the essence and it cannot be done at the time prior to the acquisition of the goods or services, that there be some subsequent approval or review process. She further noted down below, there is the provision about if it is not possible to obtain Town Board approval, the Department Head may take the emergency action. She said she would like to see some review process. Supervisor Ringler suggested a sentence indicating it should be submitted to the Town Board after the fact for advisement. Ms. Galvin said something of this nature and with the possibility of if it cannot be done by formal Town Board action, at least the Supervisor should be consulted. Mr. Kaplowitz said he has difficulty in seeing or contemplating how you could have an emergency that could not be acted on by the Town Board. He said in any event, if there were an emergency, it should be declared by the Town Board and for that reason we are authorizing the approval. Mr. Kaplowitz said it would be a very, very rare instance. Councilman Webster said there was one example, in the 1980s when a chipper was required and authorized to be purchased. He said this was allowed one week before the Town Board meeting and approval was granted at the meeting. Mr. Kaplowitz said a better way to do this would be to call an emergency Town Board meeting for 5 minutes and approve it. Mr. Webster said this was drawn in accordance with Section 103 of the Town Law. He said this would make some allowance for different situations. Mr. Kaplowitz said a sentence could be added, "any such purchases shall be approved by the Supervisor". This was satisfactory to the Town Board.

Adopt
Purchasing
Procedures
submitted
by Comptrolle

The motion was made by Mr. Gunner and seconded by Mrs. Fuller that the Purchasing Procedures with changes indicated be adopted. The motion was adopted by the following vote:

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

Noes: None.

Supervisor Ringler next acknowledged receipt of Certificate of Approval of Final Plat No. 131-F, Favaloro Subdivision, for information purposes.

Acknowledge
Receipt of
Final Plat
Favaloro
Subdivision

Supervisor Ringler said the next item was a recommendation from Chief of Police, Richard LaChappelle, regarding uniform items. The Chief stated that the number of uniforms needed for 1992 will not exceed the maximum dollar amount permitted without going to bid and therefore, he recommends rejection of all bids received.

Police
Uniform Bids
Rejected

The motion was made by Ms. Galvin and seconded by Mr. Gunner to reject any and all bids received for the furnishing of Uniforms for the Town of Bethlehem Police Department. The motion was adopted by the following vote:

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

Noes: None.

Supervisor Ringler said the next item is a request from Judith Kehoe, CPA, Comptroller for approval of attendance at a special program at Siena College.

Approve
Comptroller's
Attendance at
Special Program
on New Accounting
Procedures at
Siena College

The motion was made by Mr. Webster and seconded by Mrs. Fuller to authorize Judith Kehoe, Comptroller, to attend a Special Program on New Accounting Pronouncements to be held May 13, 1992 at Siena College, Latham, NY with registration fee paid. The motion was passed by the following vote:

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

Noes: None.

Accept Deeds
Elm Avenue and
Kenwood Avenue

The Supervisor noted the following item was a request from the Department of Public Works, Michael Cirillo, P.L.S., for acceptance of deeds for Elm Avenue and Kenwood Avenue.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that one (1) deed document from Messrs. John and Wallis Winne and C. Alva Bloodgood for right-of-way purposes on Elm Avenue and two (2) deed documents from Pellerin Homes, Ltd. for easement purposes along Kenwood Avenue, be and they hereby are 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.

Request from
Commissioner of
Public Works to
authorize
Supervisor to sign
Water Supply
Agreement with
Selkirk Cogen

Following, according to Supervisor Ringler is a request from Bruce H. Secor, P.E., Commissioner of Public Works, to authorize the Supervisor to sign the Water Supply Agreement with Selkirk Cogen.

Mr. Secor noted based on the comments received from the Board, he has prepared a short memorandum which each Member has, which deletes language from page 12, Section 14, part of sentence 14B and it adds a new section for other Town approvals and a resolution, of course.

Supervisor Ringler asked if there were any questions. Councilman Gunner asked if this would be subject to approval by the Attorney. Mr. Secor said the Attorney for the Water District, Dixon Welt, has already reviewed this.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to authorize the Supervisor to sign the Water Supply Agreement with Selkirk Cogen, with changes noted. The motion was passed by the following vote:

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

Noes: None.

Mr. Secor requested the following resolution also be adopted:

RESOLVED, that the Town Supervisor is hereby authorized to execute the Water Supply Agreement with Selkirk Cogen Partners, L.P. ("SCP"), and that the performance of the Town of Bethlehem's obligations thereunder, are hereby approved.

FURTHER RESOLVED, that in accordance with paragraph 11 of the Water Supply Agreement, the Town of Bethlehem hereby requests and authorizes the Albany Water Board, the City of Albany, or such other party as SCP shall determine, to supply water to SCP consistent with paragraph 11, and the appropriate officer(s) of the Town of Bethlehem are hereby authorized and instructed, on behalf of the Town of Bethlehem, to take whatever additional action as may be necessary or appropriate to evidence this and the foregoing resolution, and to facilitate SCP's procurement of an alternate water supply consistent with paragraph 11.

The motion was made by Ms. Galvin and seconded by Mr. Webster to adopt the above resolution. 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 thanked Mr. Secor.

The Supervisor said the following item was a recommendation from Michael Cirillo, P.L.S., Department of Public Works, for the award of bids for Corrugated Steel, Plastic, and Corrugated Aluminum Pipe.

Award Bids
Corrugated
Steel, Plastic
and Corrugated
Aluminum
Pipe

The motion was made by Ms. Galvin and seconded by Mr. Gunner to award the bids for Corrugated Metal Pipe and Pipe-Arch, Plastic Pipe and Corrugated Aluminum Pipe to Lane Enterprises, Inc.; Chemung Supply Corp.; and Vellano Bros., Inc. for the items as specified in the memorandum from Michael J. Cirillo, P.L.S., Department of Public Works, dated March 31, 1992. The motion was passed by the following vote:

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

Supervisor Ringler said the next item on the agenda was a request from David Austin, Administrator of Parks & Recreation Department for the appointment of seasonal and summer personnel.

Approve
Parks & Rec.
Dept.
Seasonal
Personnel

A question was raised in regard to the different salary rates for personnel when the job title is the same. Mr. Austin said it is based pretty much on what his Department feels the responsibility of the job is. He also explained there are some positions which require more expertise and training. He said they are pretty much based on responsibility and supervision.

Question was also raised about what the difference is between a recreation program director and recreation instructors I, II and III. Mr. Austin said recreation program director is probably a management position, manager of the concession stand was mentioned as an example. He said the recreation instructors are different levels of instructional staff. He further explained the three different levels.

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The motion was made by Mr. Gunner and seconded by Mr. Webster that the persons listed on the Memorandums dated April 8, 1992 from David Austin, Administrator of Parks & Recreation and on file in the Town Clerk's office, be and they hereby are

appointed to serve at the pleasure of the Town Board and that they be compensated at the rates stated. The motion was passed by the following vote:

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

Approve Transfer
of Funds
Building
Dept.

Supervisor Ringler said the next item was a request from John Flanigan, Building Inspector, for approval of a transfer of funds.

The motion was made by Ms. Galvin and seconded by Mr. Webster to approve the transfer of \$800.00 from contractual expenses A3620.441 to Equipment A3620.221. The motion was passed by the following vote:

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

Dumping Permit
Hilland

Supervisor Ringler noted the following item was a request from John Flanigan, Building Inspector, for approval of a dumping permit for Johnny S. Hilland, Slingerlands, NY.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to approve the issuance of a dumping permit for Johnny S. Hilland, 1492 New Scotland Road, Slingerlands, NY with recommendations as stated by the Engineering Department. The motion was passed by the following vote:

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

Dumping Permit
O'Brien

The following item was a request from John Flanigan, Building Inspector, according to Supervisor Ringler, for approval of a dumping permit for Timothy O'Brien, Delmar, NY.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to approve the issuance of a dumping permit for Timothy J. O'Birne, 24 McCombe Drive, Delmar, NY with recommendations as stated by the Engineering Department. The motion was passed by the following vote:

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

Approve
Attendance of
Public Works
Employees at
NY Water Pollution
Control Assoc.
Training Session

Supervisor Ringler noted the next item was a request from Bruce H. Secor, P.E., Commissioner of Public Works, for approval of attendance of 4 employees at the NY Water Pollution Control Association training session.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that four (4) employees of the Department of Public Works be and they hereby are authorized to attend the NY Water Pollution Control Association one day training session at Chaucer's Banquet House, Clifton Park, NY on April 23, 1992 with registration fee paid. The motion was passed by the following vote:

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

The next item was a request from Gregg A. Sagendorph, Superintendent of Highways for the the award of the bids for Washed Crushed Stone, Rental of Heavy Construction Equipment and Latex Modified Asphalt Pavement.

Award Bids
Washed
Crushed
Stone, Rental
Heavy Equip.
and
Latex
Modified
Asphalt
Pavement

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the bid for Washed Crushed Stone be awarded to Jointa Lime Company of Ravena, NY for Type A and Callanan Industries, Inc. of South Bethlehem, NY for the remaining types of stone as per their submitted bids. 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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The motion was made by Ms. Galvin and seconded by Mr. Webster that the bid for Heavy Construction Machinery be awarded to John Cross Excavating of Selkirk for Items 1, 5 and 6; Anjo Construction of Latham, NY for Items 2 and 3; and Peter Frueh, Inc. of Feura Bush, NY for Item 4. 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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The motion was made by Ms. Galvin and seconded by Mrs. Fuller that the bid for Latex Modified Asphalt be awarded to Gorman Brothers, Inc., Albany, NY at a price of \$1.65 per yard. The motion was passed by the following vote:

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

Noes: None.

Supervisor Ringler said the next item was a request from Judith Kehoe, CPA, to approve a budget transfer of \$3,000.

Approve
Budget
Transfer
Requested
by Comptroller

Questions were asked in regard to the availability of other work stations in the office. Mrs. Kehoe noted the two existing stations are used by the other employees and noted this PC will permit her to use both the main frame system and have the added features on the PC for accounting, personnel and the added benefit of spreadsheet applications.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to approve the transfer of \$3,000. from the General Account, Budget A1340.12 Personnel Services to Budget A1340.213 Equipment. The motion was passed by the following vote:

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

Noes: None.

The minutes of the meeting of March 11, 1992 were approved on a motion made by Mrs. Fuller and seconded by Mrs. Galvin. The motion was passed by the following vote:

Minutes
of March 11,
1992
Approved

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

Noes: None.

Abstain: Mr. Webster.

Following was a recommendation from the Supervisor regarding legal fees pertaining to questions raised at the organizational meeting.

Adopt policy
regarding
legal fees

The motion was made by Mr. Webster and seconded by Mrs. Fuller to adopt the policy as presented by the Supervisor in regard to Legal Fees. (Policy will be on file in the Town Clerk's Office on the memorandum dated April 2, 1992 from the Supervisor to the Town Board.) The motion was passed by the following vote:

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

Accept Deeds
Westchester
Woods Ext. 2
Subdivision

Supervisor Ringler said the following item was a request from Bruce Secor, P.E., Commissioner of Public Works, for acceptance of deeds in the Westchester Woods Extension 2 subdivision.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the deeds for the Westchester Woods, Extension 2 subdivision be and they hereby are 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.

The Supervisor asked if there was anything else to come before the Board. There was nothing.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to close the Town Board meeting at 9:40 p.m. The motion was passed by the following vote:

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

Kathleen A. Newkirk
Town Clerk