

TOWN BOARD
DECEMBER 9, 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: Good evening. Like to call a regular meeting of the Bethlehem Town Board to order. There is no public hearings this evening but as with past practices, the Board discusses the business items on their agenda. If at the end of the discussion anyone has a question, as time permits, if you raise your hand we will try to answer it. At the end of the meeting, anything that anyone would like to bring to the attention of the Board, you may do so.

Consider
SEQR
Resolution
Meadowbrook
Section 3

First item on our agenda tonight is consider a resolution regarding the SEQR determination has recommended by the Planning Board pertaining to Meadowbrook Section 3. This is a planned residential district in which the Planning Board makes recommendations to the Town Board and the Town Board is the approval agency. Counsel to the Planning Board, Mr. Alessi, is here and Bob, just so everyone understands the process, could you give a brief overview of how this process works.

COUNSEL ALESSI: Thank you. Members of the Board, the process is driven by the Memorandum of Understanding which I know you are familiar with and briefly, this matter comes before you to make a determination of significance under the State Environmental Quality Review act. The determination of significance, as you have had experience with before, you make a determination whether there may be a significant environmental effect from this project. You have before you the information from the Planning Board, but as the Memorandum of Understanding indicates in more than one place, you are the principal decision makers so the decision is your to make. However, the SEQR regulations also indicate that you should draw upon others who have experience in the area and that is consistent with our PDD that refers this matter to the Planning Board.

So, before you tonight, you make your independent determination based upon all information you have seen, whether this project may have a significant effect on the environment. Procedurally, that would result in having this be a formal document, a negative declaration or a positive declaration that is filed. But, I will stop there and say that is the matter before you procedurally. In concluding, say that you should make an independent determination on that question.

SUPERVISOR RINGLER: Okay. The Board has received a packet of material from the staff and minutes from the Planning Board and so forth, explaining the project and I have a feeling you do understand it but the developer or representative of the developer is here this evening, Mr. Sipperly, and I would ask him, to again give a brief overview as to what this project is for the record.

MR. SIPPERLY: Thank you, Mr. Supervisor. My apologies I have one more. Mr. Supervisor, Members of the Town Board, we brought along this evening some diagrams of the proposed Meadowbrook Section 3 to kind of explain what we are proposing to do. The first drawing represents the property of the project, the red line represents the boundary of the project. It is a 66 acre site, located on the northwesterly side of Blessing Road. Blessing Road runs along our east side, along the bottom of the map here. We are bounded by the Normanskill on the west and on the south and we have 2 private owners, 3 private owners at this location here, Bendell, Wagner and Minnock. At this location here, are 3 private property on our east

side and some private property to our north. This here is now a subdivision, formerly Quadrini and has been divided into building lots up there.

COUNCILWOMAN GALVIN: Mr. Sipperly, could I interrupt you for a moment. At the November 17th Planning Board meeting, you displayed several different drawings similar to that. From this distance, I obviously can't tell which one that is. Is that the 1991 plan that was submitted to the Planning Board in 1992 or is that the prior map.

MR. SIPPERLY: This is a 1991 plan, submitted to the Planning Board in '92.

COUNCILWOMAN GALVIN: Thank you.

MR. SIPPERLY: The plan shows a multi-unit development consisting of town homes and condominium units. We are proposing a total of 184 dwelling units. What we have here is 15 building containing 8 condominium units each, located in this area here, these are larger blocks and we have 17 -- what we will call building clusters which is a building that has several units side-by-side -- in this area here that contains 64 units, total units of town house units.

We are proposing to enter the development by a new road to be constructed off of Blessing Road at this location here which is opposite the intersection of Meadowbrook Drive and Blessing Road. And, we are proposing to bring a loop type roadway within the development looping back to the entrance road at this location here and to construct another road, which we call Winding Ridge, which terminates in a cul-de-sac at the northerly end of the site -- this location here and a third little eyebrow street called Shadow Lane here to provide access to town home units that we have located in this area, so... The project would be developed with sewer and water for each unit. Water apparently exists in Meadowbrook Drive and we would propose to extend that across Blessing Road and down within the project and to each unit. Sanitary sewers exist also on Blessing Road at the intersection of Meadowbrook Drive and at the bottom of the map at this location here, on the south side of Blessing Road is a sewer pump station owned by the Town. We propose to provide a new source system within the development and to connect back to the sewer system that then flows to the pump station.

The concerns that we have learned from the Planning Board is... and that is consideration for this site is the topography -- we have some areas of flat slope, and we have some areas that are steeped sloped. The topography is what you would consider to be called irregular, approximately 30 acres of the site is between 0 and 15 percent, another 6 acres is between 15 percent and 25 percent and above that the remainder is above 25 percent. This land, this parcel of land lends itself well to its existing zoning which is a planned residential district, wherein you develop in the areas of a site that are suitable for development because of their grade and topography and you leave the steeper parts of the site open and undeveloped, to remain in their natural state.

COUNCILWOMAN GALVIN: Mr. Sipperly, with respect to the grade and slope of the site, at the November 17th Planning Board meeting you indicated in response to a question from Mr. Alessi, that there were letter reports from engineers with respect to the site and that they were... either had been submitted to the Planning Board or were to be submitted to the Planning Board. I have reviewed the material that was provided to us in our packet and I don't have those. Do you have those with you here tonight?

MR. SIPPERLY: I didn't bring them with me this evening. We have 2 preliminary reports, one from Richard Burns who is the Geotechnical Engineer and the second from Vern Hoffman who is also a Geotechnical Engineer, two separate firms. We consulted with these engineers to determine their opinion with regard to developing this site and particularly developing close to the slopes that are a consideration. We used their recommendations to prepare the plan that we are presenting here this evening, the '91 plan.

COUNCILWOMAN GALVIN: Were those letter reports ever submitted either to the Planning Board or to anyone else in the Town?

MR. SIPPERLY: I believe that they were included in a package that was delivered to the Planning Board with the submission of the drawings in '92. There was an environmental package which was the EAF plus a project description and I believe those soil reports were submitted.

COUNCILWOMAN GALVIN: So, those reports were submitted in February of '92, is that correct?

MR. SIPPERLY: That is correct.

COUNCILWOMAN GALVIN: Were any other engineering reports ever submitted to either the Planning Board or to anyone else in the Town concerning the topography of this site prior to that date?

MR. SIPPERLY: Not to my... well, yes, I believe that the Richard Burns report was prepared back in '87.

COUNCILWOMAN GALVIN: Was it submitted?

MR. SIPPERLY: Yes, it was submitted.

COUNCILWOMAN GALVIN: Do you know when it was submitted?

MR. SIPPERLY: I don't know when it was originally submitted. We had been before this Board in '88 with this development and I think they would have been included in that package because it was a consideration but I don't have with me the folder, the binder of the job to confirm that that was.

COUNCILWOMAN GALVIN: Could you make a determination and let us know when, in fact, those reports were submitted and also provide copies.

MR. SIPPERLY: Yes, be happy to do that.

COUNCILWOMAN GALVIN: Thank you.

MR. SIPPERLY: To proceed further, another consideration of this site -- there are several unique considerations, one is the steep slope, the irregular topography, the second is the flood plain of the Normanskill. This drawing... it is not colored on this drawing but the line as I am tracing here kind of represents the 100 year flood plain of the Normanskill. That line has been determined by the government. We have in most instances with the exception of some work right down in this corner of the project here, and the access road -- the flood plain actually kind of comes up one of the ravines a little bit here in the project. For this area and a small portion of the site over here which is basically grading, we have avoided the flood plain of the Normanskill.

COUNCILWOMAN GALVIN: When you say that the line has been set by the government, are you referring to the Corps of Engineers?

MR. SIPPERLY: No, it's actually... I believe it was set by HUD under the flood management program.

COUNCILWOMAN GALVIN: Have you been in contact with any federal government agency including Corps of Engineers concerning this site and the Normanskill flood plain?

MR. SIPPERLY: We haven't made that contact yet. We are at a point I think that once we determine the reaction of both this Board and the Planning Board to the development as far as its favorability that we could proceed forward, we would -- our next step would be to contact these departments.

Basically that is an overview. A little bit brief, perhaps, in my presentation. There is one other drawing I would like to show the Board that would kind of represent what the development would look like when completed. This just represents a colored rendering of what the final end product would look like. The other drawings show

the contour lines, shows the utilities and it is very busy with engineering detail. But, once the development is constructed or the roads have been constructed much of that detail is hidden from the normal person's eye. Really what we have here is it shows the roadway system, our entrance road here which is Westmont Drive, which is a circular road looping back to the boulevard at this section here, our second road Winding Ridge, Shadow Lane here, parking lots for the condominium area -- parking lot here, here and one over here and some back in here -- we have a total of, I believe, 412 spaces provided which equates to 2.16 parking spaces per unit for the condominiums. The townhouses would all have garages, at least a single stall garage and in some instances 2 car garages and each one will have an individual driveway. The townhouses are, again, are, I use the word clustered, but they are grouped, is another word to use in configurations of 4 and 3. That would be the maximum configurations that we have. The difference in this plan, the '91 plan with reference to the plan that was submitted in '88, is the density of the project has been significantly reduced. The plan that was submitted in 1988 reflected 212 units and the plan that we are presenting this evening is 184 units. The zoning allows 8 units per acre based on useable acreage for the site which would, through the calculations I have performed would indicate 233 units could be developed on this site. We are proposing 184 which equates to 6.1 units per acre. But, what this also shows is the landscaping that would be placed along with development trees and the area would be revegetated, for the Board members who are familiar with this property years ago it was farmed. Probably it has not been farmed in the last 10 to 12 years and has grown up with a lot of saplings now but I have photos back in the late 60s and 70s where you could see the cultivated fields at that time.

COUNCILWOMAN GALVIN: Mr. Sipperly, you have referred to Blessing Road and the entrance onto Blessing Road, at the November 17th Planning Board meeting there was also discussion concerning traffic studies and at that time you indicated that the Smith & Mahoney study was not completed and that you had been looking into the Krumkill GEIS and the related Albany County work. Have you done any traffic study work that you can report to us at this time?

MR. SIPPERLY: We have not commenced a traffic study yet for this development. Again, we were... before we embark into those costs, I guess or expenses to the development, we were looking to receive the input from the various boards, yourselves the Town Board and the Planning Board with regard to what would be the acceptable density and layout of the development.

COUNCILWOMAN GALVIN: Have you done any preliminary research into traffic flow on Blessing Road?

MR. SIPPERLY: We have used the -- there are statistics and books of reference that we use. One is the Institute of Traffic Engineers publishes a manual for various land uses. For the 184 units that are proposed here, they would approximately 85 vehicles per hour during the peak hours of adjacent traffic. These peak hours occur twice a day 7-9 in the morning and 4-6 in the evening. The peak traffic would occur here at this development in the evening and it would be 85 cars, it would be peak cars within a 2 hour time frame.

COUNCILWOMAN GALVIN: And, have you done any study at all with respect to the current traffic flow on Krumkill -- I am sorry on Blessing?

MR. SIPPERLY: No, we haven't.

COUNCILWOMAN GALVIN: Also with respect to studies that have been undertaken or not undertaken, again at the November 17th Planning Board meeting there was discussion concerning subsoil testing. Since that time, has any subsoil testing been done?

MR. SIPPERLY: We have not commenced with the boring program to do... what we will call the phase 2 of the geotechnical exploration. We have not done all that.

COUNCILWOMAN GALVIN: And, what is your cost estimate for that?

MR. SIPPERLY: I believe, it may range between \$15,000 to \$25,000.

COUNCILWOMAN GALVIN: And, what would be the time frame for completion of such a soil... subsoil test?

MR. SIPPERLY: It would probably take us 2 months to do the actual physical testing in the field and then to put the report together.

COUNCILWOMAN GALVIN: Was any soil testing ever done for this site from the time that the project was originally presented? Are there any old tests sitting out there?

MR. SIPPERLY: I don't know of any particular borings taken on this project. I think that each one of the engineer's who had gone out there, the Richard Burns and Vern Hoffman, may have done probes which isn't the same as going out there with a bore... larger formal drilling rig and drilling to depths of 20-25 feet.

COUNCILWOMAN GALVIN: As a matter of curiosity, since you have described major slope problems as a potential on this site in terms of location and in terms of actual construction. Why weren't those soil tests done? Why haven't they been done to this point? They would be very helpful.

MR. SIPPERLY: Well, we did get the preliminary or the phase 1 geotechnical reports. That is based on the experience and knowledge of the two firms that we used. Their recommendations were based on a walk-over review of records of this area, their knowledge of the tri-cities area and the soils that are expected to be found on this site. They have really come back to us, with what we consider, to be conservative recommendations. Conservative in the sense that I think that once we actually go and do the phase 2 with the actual soil borings and more detailed analysis, we will find we will be able to develop even further, closer to the top of the slopes.

COUNCILWOMAN GALVIN: You indicated that in the original engineering that there was some original engineering report, probably done by Richard Burns, is that correct?

MR. SIPPERLY: Yes.

COUNCILWOMAN GALVIN: Then there was a later engineering study done by Vern Hoffman, right?

MR. SIPPERLY: Correct.

COUNCILWOMAN GALVIN: Was there a difference in the land area that was recommended for usage between the Burns and the Hoffman studies?

MR. SIPPERLY: Not appreciably, there may have been difference of opinions but it didn't vary significantly -- say maybe there was a difference of maybe 10 to 20 feet of a certain development line -- but it wasn't like one of them said don't develop at all or don't develop this part at all. Their reports were very similar, what we would expect at that level of detail.

COUNCILWOMAN GALVIN: Would you characterize the Hoffman report to be more conservative than the Burns report based upon your review, assuming the Hoffman report was the later report?

MR. SIPPERLY: The Hoffman report was the later report. I consider it to be the more conservative because we had worked extensively with Vern Hoffman, our firm has and actually, our instructions to Vern Hoffman was to go out there and be conservative. Tell us the conservative line because I would rather not come in with units that we cannot develop as we go into the next phase.

SUPERVISOR RINGLER: As I read this, my sense is those initial reports were very preliminary and cursory in order to give you a direction as to go with the submission of a plan.

MR. SIPPERLY: That is correct.

SUPERVISOR RINGLER: But, in this process, in the SEQOR process, before we have to get into mitigating measures, the idea would be at that point... would be to get the very specific engineering and soil reviews to determine exactly where this would go. This -- and again, I am asking the question -- this was just done to, as I would read into this, is to give you a sense that this project was even feasible.

MR. SIPPERLY: That is correct. To give us a direction as to what would be the area that could be considered for developments, what areas would be in the sensitive slopes.

COUNCILWOMAN GALVIN: Going back to the question about the Hoffman report, this plan that you are showing us now, is based on the Hoffman report as opposed to the Burns report, is that right?

MR. SIPPERLY: That is correct.

COUNCILWOMAN GALVIN: And, this plan is more conservative than the plan previously submitted under the Burns report, is that correct?

MR. SIPPERLY: They are really 2 different plans, they are quite different. The prior plan if you recall, had 2 roadways onto Blessing Road and it was 212 townhouse units, it didn't include condominium units and we had buildings clustered, or groups of up to 6 per grouping, which allowed us to increase the density.

COUNCILWOMAN GALVIN: Are you still developing the same physical land area in this plan as you were in the original plan?

MR. SIPPERLY: Yes.

COUNCILWOMAN GALVIN: Have you decreased the size of the area to be used for development at all?

MR. SIPPERLY: I would say only marginally without looking at the plan below and specific contours where we cut off -- where we determined the development limit line to be either planned... I think they are only marginally different from one another.

COUNCILWOMAN GALVIN: There are differences.

MR. SIPPERLY: Yes.

SUPERVISOR RINGLER: Any of the other Board members have any questions?

COUNCILWOMAN FULLER: No, a lot of them were addressed in the work the Planning Board did for us.

SUPERVISOR RINGLER: Yes.

COUNCILMAN GUNNER: This may want to wait if the Planning Board... you may want to wait for my question after I give it for the Planning Board.

SUPERVISOR RINGLER: Okay.

COUNCILMAN GUNNER: You are probably aware that on the Soil Conservation Service, the slope stability, that we have information that the applicant's which would be your firm...

MR. SIPPERLY: Yes.

COUNCILMAN GUNNER: Did submit some slope stability reports that indicated that they were unstable -- that is what I have in my hand.

MR. SIPPERLY: I think that you will find that the Soil Conservation Service, they are more generic in their description of soils in the area. They don't generally get down to an individual site. They may say that the whole Normanskill valley as it winds through the County, where you have the situation that the slopes are not stable. I think that statement is a fair statement but what we have had here is -- trained, geotechnical engineers come out and look at this specific

site, look at the conditions that you can observe on the site and make the recommendation based on that.

COUNCILMAN GUNNER: Well, which of your consultants did agree that the slope stability is unstable?

MR. SIPPERLY: I think that both of them would have that opinion. That doesn't mean that you can't develop this site, that just means that special considerations need to be taken into account when you do develop the site so that one of the considerations are not to put additional weight on the slopes. If you can remove weight from the slopes you can increase the stability of the slope or the strength of slope significantly. That is one of the principals that we will be following here, taking material off the top of the slope. That will increase the stabilization. Putting underdrains in the slope is another. There is many things you can do in an engineering capacity to increase the stability of these slopes to where they will not be a threat or hazard.

COUNCILMAN GUNNER: Is there any fill that you are going to use, probably from the site, to help build the roads on the way in?

MR. SIPPERLY: We would... we have to cross the ravine with the main boulevard road and we would propose to use the materials from the site to create this fill, yes.

COUNCILMAN GUNNER: Have you submitted anything that is... gives indication that the soils will support that fill?

MR. SIPPERLY: I believe I did review the Burns report before I can this evening and that report indicates that... actually it spoke about the road that was over here, which was a 40 foot fill. This is less than that, this is probably only going to be like 20 foot fill. But, when you place that much fill on top of existing earth, you can expect the earth below it to compress so Richard Burns did indicate for 40 foot fill, you might expect a 4 inch settlement of the soils below the road.

COUNCILMAN GUNNER: Would you kindly go over where you are going to have some construction within the flood plain?

MR. SIPPERLY: Okay. We need to consult the map below here. The flood plain -- my other drawing might help us to get a better feel as to how that line runs. I don't mean to take a lot of the Board's time. This is a drawing of the site without the developed... the only difference here is that it does not show all the units that are proposed and the road system and the utilities. The red line still represents the boundary, the blue line is the closest edge of the Normanskill, but this does show, the yellow line is the highlighting of the flood plain line. As you can see, it parallels the Normanskill along our west side and it comes back into the project here and then it goes up this ravine to a point and then it comes back down. The flood plain line is really based on an elevation and the elevation for this area is 119.

COUNCILWOMAN GALVIN: Excuse me, where is the proposed road with respect to that point in on the flood plain?

MR. SIPPERLY: The proposed road is coming right through like this.

COUNCILWOMAN GALVIN: Going right across the flood plain.

MR. SIPPERLY: Yes. So, this section of the flood plain will be affected by the proposed road and there is an area right over in this corner here that is affected by grading for the units. Now, I can take this one down and try to show you that line. That line on this drawing here is not colored up, it is this blue line -- this heavier blue line that I am tracing out. It comes down right through the development here.

COUNCILWOMAN GALVIN: Excuse me, is that building in the flood plain?

MR. SIPPERLY: A portion of this building is located in the flood plain but it is not at the elevation of the 100 year flood. It is

above the 100 year flood elevation. We are proposing to put some fill in this area here so that building... the floor of this building here is proposed at 126, the flood plain is at 119 so we have a 5 or 6 foot...

COUNCILWOMAN GALVIN: You give it stilts.

MR. SIPPERLY: No, not at all. It would be on foundation but it would be above the 100 year water level. So, this corner here plus where that flood plain kind of comes up this ravine and comes back down. So, it would be the road, we are proposing to put some basketball and tennis courts on it at this location here. And, right here, the loop of the circular street would also cross the flood plain at this location. So, there are 2 locations where a street would cross the flood plain. And, again, these aren't crossing, they are crossing significantly above the elevation of the flood plain. So, they are not in the flood plain, they just cross that line.

COUNCILWOMAN GALVIN: The subsurface support of the road would be down at the level of the flood plain, is that correct?

MR. SIPPERLY: Yes, it would be the same as any of the land on this side of the flood plain is above and below. So, once you put fill, then you kind of creating land above the flood plain.

SUPERVISOR RINGLER: Any other questions? The Planning Board has submitted a recommendation to us and obviously a lot of these concerns that have come out tonight, particularly in the area of slope stability, that recommends that we do issue a positive declaration on this and that a draft environmental impact statement be prepared. And, I guess with that land slide that took place across the creek from this location, I think we all should have serious concerns about the stability and what is going to happen there and naturally, want to make sure when this is approved and if it is approved, all those problems are mitigated. The Planning Board has outlined areas that they feel that the environmental impact statement should look at but not necessarily limit to and that is slope stability, soil suitability, the Normanskill flood plain and flood way and what effects that has on what you are proposing here, existing utilities, erosion and sedimentation, archeological resources and traffic. And, there is a resolution that is attached here which suggests that we become the lead agency and that a positive declaration be issued and that the SEQR process begin. Any questions regarding that? If not, I would entertain a motion to offer that resolution of a positive declaration and lead agency by the Town Board.

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

COUNCILWOMAN GALVIN: I have a question for Bob Alessi at this time. Bob, you referred early on in your presentation to the Memorandum of Understanding. I have some concerns about that in terms of setting lead agency at this time based on some comments that were made by Mr. Barr at the November 17th meeting. What is your interpretation of the Memorandum of Understanding with respect to its specific applicability to this project? I think you know the comments I am referring to.

MR. ALESSI: If you could help me out with that. Let me say, first of all, it is my understanding that this Board already made a lead agency determination meetings before, and correct me if I am wrong. And, that is how it got to the Planning Board in the first instance.

SUPERVISOR RINGLER: Perhaps you are right.

MR. ALESSI: You already made it.

SUPERVISOR RINGLER: When we referred it to the Planning Board.

COUNCILWOMAN GALVIN: Yes.

MR. ALESSI: Right, so the lead agency determination has been made.

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COUNCILWOMAN GALVIN: Okay.

MR. ALESSI: Ms. Galvin, if...

COUNCILWOMAN GALVIN: You just clarified.

MR. ALESSI: Okay.

SUPERVISOR RINGLER Right, right, and that is what our policy is now. Okay. Any further discussion?

The following resolution was presented for adoption:

SEQR RESOLUTION
POSITIVE DECLARATION
MEADOWBROOK SECTION 3
PRD No. 1

- WHEREAS, the Town Board of the Town of Bethlehem has received an application from Gladstone Development Corporation for Building Project Approval to develop Section 3 of Planned Residence District (PRD) Number 1 for 64 townhouse units and 120 condominium units; and,
- WHEREAS, the parcel to be developed consists of approximately 66 acres of land located on Blessing Road between the Normans Kill and Brookhill Subdivision; and is presently zoned Planned Residence District; and,
- WHEREAS, the Town Board of the Town of Bethlehem determined that the proposed project is classified as an Unlisted action; and,
- WHEREAS, the Town Board has declared itself lead agency with respect to this action; and,
- WHEREAS, the "Memorandum of Understanding between the Town of Bethlehem Town Board and Planning Board for Planned Development Districts" (MOU), adopted by the Town Board on February 27, 1991, sets forth the procedure for incorporating the requirements of Article 8 of the New York State Environmental Quality Review Act (SEQRA), with the requirements of Article V of the Code of the Town of Bethlehem for the review/approval of Building Projects within established districts; and,
- WHEREAS, in accordance with the procedures outlined in the MOU, the Town Board referred the Building Project application to the Planning Board for a recommendation on a determination of significance; and,
- WHEREAS, by means of a resolution adopted November 17, 1992, the Planning Board has recommended to the Town Board that a Positive Declaration be made with respect to the proposed action; and,
- WHEREAS, the Town Board has reviewed Part I of the full Environmental Assessment Form submitted by the applicant, along with Part II completed by the Town Planning Department; and,
- WHEREAS, the Town Board has received comments and recommendations from the Town Engineering, Planning, and Building Department Staff based on their review of the environmental information; and,
- WHEREAS, issues identified by the Planning Board and its staff and consultants during the presentation of this project by Smith and Mahoney on behalf of the Gladstone Development Corporation at the Planning Board's September 4, 1990 and November 17, 1992 meetings indicate that there may be significant environmental effects associated with the project with respect to traffic, soils, slope stability, project density, and archaeology, since these areas have not been fully addressed or satisfied, and information with regard to these issues is still incomplete; and,
- WHEREAS, the possible significant environmental effects include, but are not necessarily limited to, the following:
1. slope stability - construction and grading are proposed on and near the tops of steep slopes which are identified as unstable according to Soil Conservation Service and U.S. Geological Service information, as well as by the applicant's geotechnical consultant,
 2. soil suitability - no information has been provided with regard to the suitability of the soils on the site as fill material and their ability to adequately withstand proposed fill loadings,

3. the Normans Kill floodplain/floodway - construction has been proposed within the area of special flood hazard (the 100-year floodplain) which also appears to encroach into the floodway of the Normans Kill. Detailed information, which has not been submitted, is needed prior to obtaining a development permit for such construction (as required in Chapter 69 of the Town Code),
4. existing utilities - no documentation has been provided to show that the existing water and sanitary sewer facilities will be able to adequately serve the proposed development,
5. erosion and sedimentation - no mitigating control measures have been proposed to deal with the potentially significant erosion and sedimentation impacts on the Normans Kill resulting from construction and grading adjacent to that stream,
6. archaeological resources - no information has been submitted with regard to possible archaeological resources on the site, which is located in an archaeologically sensitive area on the NYS Site Inventory,
7. traffic - no traffic impact study has been prepared to address the impacts of this proposed project on the capacity of the existing transportation system (several nearby intersections were identified as operating at LOS E in a 1988 study entitled Draft Report for Traffic Engineering Assessment of County Highways in the Krumkill Planning Area) and information requested by the Planning Board regarding the sight distance along Blessing Road from the proposed access road has not been submitted; and,

WHEREAS, preparation of a Draft Environmental Impact Statement will enable the Town Board, Planning Board, and other involved and interested agencies to comprehensively consider the possible significant environmental effects of the application;

NOW, THEREFORE, BE IT RESOLVED, that based upon its independent review of the proposed project and supporting materials presented by Gladstone Development Corporation, the accompanying Environmental Assessment Form, staff memos, and the deliberations and recommendations of the Planning Board, and its comparison of the project with the Criteria for Determining Significance found at 6 NYCRR 617.11, the Town Board of the Town of Bethlehem concludes that the proposed Building Project known as Meadowbrook Section 3 is an action which may have significant effects on the environment, as identified above, and on other aspects of the environment that may be revealed upon receipt by the Town of forthcoming information, and which therefore requires the preparation of a Draft Environmental Impact Statement (DEIS); and,

BE IT FURTHER RESOLVED, that this determination shall be considered a Positive Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,

BE IT FURTHER RESOLVED, that a copy of this Positive Declaration shall be filed and circulated in the manner prescribed at 6 NYCRR 617.10(b) and 617.21.

On a motion by Ms. Galvin, seconded by Mrs. Fuller and a vote of 5 for and 0 against, this RESOLUTION was adopted on December 9, 1992.

SUPERVISOR RINGLER: Thank you all very much.

Adopt
SEQR
Resolution
Meadowbrook
Section 3

SUPERVISOR RINGLER: Next I have a request... Let's let these folks get out of here. If any of you would like to take seats, I guess we have some students here from the Participation in Government class. We don't take a collection here, you can sit in the front. We have cub scouts and boy scouts too tonight, terrific. Doing our government badge? What troop are we from?

BOYS: 75.

SUPERVISOR RINGLER: Troop 75, welcome. Okay, next I have a request from Mr. Austin, Administrator of Parks & Recreation, for transfer of funds from Parks and Recreation Department budget to the Recreation

Transfer
of Funds
Parks &
Rec. Dept.

Capital Reserve Account in the amount of \$25,300. This amount was budgeted last year in line with our Capital program in the years that we can afford to do so, it is budgeted. If the cash flows allow, we will transfer it so that we are not borrowing in the future to make improvements to the swimming pool and so forth. Would like to offer a motion to authorize that transfer?

The motion was made by Mr. Webster and seconded by Mr. Gunner that \$25,300. be and is hereby transferred form the Parks & Recreation Department budget to the Recreation Capital Reserve Account.

SUPERVISOR RINGLER: Further discussion.

COUNCILWOMAN GALVIN: I've got a question, what major repairs were not made that we are moving it?

SUPERVISOR RINGLER: We are not. If you recall, we actually budgeted money...

COUNCILWOMAN GALVIN: I remember we budgeted it.

SUPERVISOR RINGLER: We budgeted money to be put into the reserve fund and that is what this is.

COUNCILWOMAN GALVIN: And, we are just moving it out of the reserve fund. We did not fail to make...

SUPERVISOR RINGLER: No, we are moving it into the reserve fund.

COUNCILWOMAN GALVIN: We did not fail to make the repairs.

SUPERVISOR RINGLER: No, they were not intended to be made. What we are doing is we are setting aside money each year for the repairs that will be needed in the future.

COUNCILMAN GUNNER: That is specifically repairs?

SUPERVISOR RINGLER: Yes. Correct, David?

MR. AUSTIN: That is correct.

The motion was passed by the following vote:

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

Transfer
of Funds
Receiver
of Taxes
and
Assessments

SUPERVISOR RINGLER: Next we have a request from Kenneth Hahn, Receiver of Taxes and Assessments, for transfer of funds from contingency to account number A1330.12 totalling \$4,000.

The motion was made by Mrs. Fuller and seconded by Mr. Webster that \$4,000. be and it hereby is transferred from Contingency to account number A1330.12, Temporary Workers account. The motion was passed by the following vote:

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

Approve
Town Board
Minutes
Oct. 7, 21,
and 28

SUPERVISOR RINGLER: The next I would entertain a motion to approve Town Board minutes of October 7, 21st and the 28th.

COUNCILWOMAN GALVIN: I had given one change or one question to Kathy on a question that was existing on the 28th. That was a question mark about Bruce nodded yes or no. Did he agree or not?

TOWN CLERK NEWKIRK: We were going to remove that. That was what you had wanted.

COUNCILWOMAN GALVIN: Oh, that was removed.

TOWN CLERK NEWKIRK: I never checked back with Bruce.

COUNCILWOMAN GALVIN: Either correct it or delete it.

TOWN CLERK NEWKIRK: Okay.

COUNCILMAN WEBSTER: My one correction was made and new pages were sent to everyone.

TOWN CLERK NEWKIRK: Yes.

COUNCILMAN WEBSTER: Fine, okay.

COUNCILMAN GUNNER: The corrections I gave you were made?

TOWN CLERK NEWKIRK: Yes.

SUPERVISOR RINGLER: Motion?

The motion was made by Mr. Webster and seconded by Ms. Galvin to approve the Town Board minutes of October 7, October 21 and October 28 with the Supervisor abstaining from those minutes. The motion was passed by the following vote:

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

SUPERVISOR RINGLER: Next I would entertain a motion to authorize the Supervisor to sign the Animal Shelter Agreement with Mohawk and Hudson River Humane Society for 1993.

Authorize
Supervisor
To sign
Agreement
Mohawk and
Hudson
Humane Society

The motion was made by Ms. Galvin and seconded by Mr. Gunner to authorize the Supervisor to sign the Animal Shelter Agreement with Mohawk and Hudson River Humane Society for 1993. The motion was passed by the following vote:

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

SUPERVISOR RINGLER: Next a request from Mr. Flanigan, Building Inspector, for approval of construction/storage trailer at the CVS Pharmacy, Delaware and Elsmere Avenue, during some renovations.

Construction
Trailer
Permit
CVS

The motion was made by Mrs. Fuller and seconded by Ms. Galvin that the construction/storage trailer permit be and it hereby is approved for issuance.

COUNCILMAN GUNNER: I think a suggestion, where he moved it to was a good suggestion.

COUNCILMAN WEBSTER: It was, it was good.

SUPERVISOR RINGLER: Yes, all in favor?

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

SUPERVISOR RINGLER: Next a request from Judith Kehoe, Comptroller, for attendance at the NYS Government Finance Officers' Association course to be held December 15, 1992 at Clifton Park, NY with \$25. registration fee paid.

Approve NYS
Government
Finance
Officers'
Association
Course
Comptroller

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that Judith Kehoe, Comptroller, be and she hereby is approved for attendance at the NYS Government Finance Officers' Association course to be held December 15, 1992 at Clifton Park, 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.

Transfer
of Funds
Police
Dept.

SUPERVISOR RINGLER: Next I have a request from Chief LaChappelle for approval of transfer from account A2680, Insurance Recovery to account 3120.464 Police Department to repair police cars in the line of duty hitting deer.

The motion was made by Ms. Galvin and seconded by Mr. Webster that the transfer of \$1,601.04 from account number A2680, Insurance Recovery to account number 3120.464, Police Department, be and it hereby is approved. The motion was passed by the following vote:

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

Noes: None.

SUPERVISOR RINGLER: Let me tell you right now, those whistles that they put on cars, don't work.

COUNCILMAN WEBSTER: Or it didn't work this time.

SUPERVISOR RINGLER: They haven't worked several times in the past.

Award
Bid
Police
and
Telecomm.
Uniforms

SUPERVISOR RINGLER: Next I have a request from Chief LaChappelle to award the bid for uniforms for 1993 for Police and Telecommunicators to Rosen's Uniform Center in Albany the low bidder.

COUNCILWOMAN GALVIN: I have one question on that. There is a comment in there, the Police Department reserves all rights as described in the bid proposal.

SUPERVISOR RINGLER: Well, they would anyway, I don't know why that is in there.

COUNCILWOMAN GALVIN: What is it? What are we referring to?

SUPERVISOR RINGLER: I don't know what he specifically means but as I read that, we have... any of the rights that are in the bid proposal we have.

COUNCILWOMAN GALVIN: We have them.

SUPERVISOR RINGLER: And, he is not here to answer that.

COUNCILWOMAN GALVIN: I would appreciate clarifications on these and we have in the past had several questions that have been raised with respect to bids and bid documents. I would like to suggest a check list for review of bids and I will be happy to provide one.

SUPERVISOR RINGLER: I don't know if it is necessary and I will see if they have one and if they don't I will look at it with you.

COUNCILWOMAN GALVIN: I would be more than happy to provide one.

SUPERVISOR RINGLER: Very good. Okay, did we have a motion on that?

The motion was made by Mrs. Fuller and seconded by Ms. Galvin to approve the award of the bid for Uniforms for 1993 for the Police and Telecommunicators to Rosen's Uniform Centre, Inc., Albany, NY at the prices indicated in the bid document. The motion was passed by the following vote:

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

Noes: None.

SUPERVISOR RINGLER: Next a request from Mr. Flanigan, Building Inspector, for approval of transfer of funds from account no. A3620.4, contractual, to account no. A3620.2, equipment.

Transfer
of Funds
Building
Dept.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the transfer of \$400.00 from account no. A3620.4, Contractual, to account no. A3620.2, Equipment, be and it hereby is approved. The motion was passed by the following vote:

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

Noes: None.

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

Approve
Seasonal
Personnel
Parks &
Recreation
Dept.

The motion was made by Mr. Webster and seconded by Mrs. Fuller that the personnel listed on the Memorandum dated December 9, 1992 from David Austin, Administrator of Parks & Recreation Department, be and they hereby are appointed to serve at the pleasure of the Town Board. The motion was passed by the following vote:

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

Noes: None.

SUPERVISOR RINGLER: Next a request from Mr. Flanigan for approval of construction trailer for Farm Family on Route 9W. They are making some improvements down there and the Planning Board has issued a site plan approval.

Construction
Trailer
Farm Family

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the construction trailer permit be and it hereby is approved for Farm Family Insurance, Route 9W, Glenmont. The motion was passed by the following vote:

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

Noes: None.

SUPERVISOR RINGLER: Next is a request from Mr. Hahn, Receiver of Taxes and Assessments, for approval of overpayment of water rents for the month of November totaling \$8.30.

Refund of
Water Rents
Nov. 1992

The motion was made by Mr. Webster and seconded by Ms. Galvin that overpayment of water rents be and they hereby are approved for reimbursement as per the Memorandum from Kenneth P. Hahn, Receiver of Taxes and Assessments, for the month of November, dated December 3, 1992, totaling \$8.30. The motion was passed by the following vote:

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

Noes: None.

SUPERVISOR RINGLER: Next a request from Charles Wickham, Jr., Town Fire Officers Association, for transfer of funds from account no. A3410.2, Fire Equipment and account no. A3410.4, Fire Prevention Contractual to account no. HS9901.9, Fire Tower Reserve Fund,

Transfer
of Funds
To Fire
Tower Reserve
Fund

totaling \$10,500. Anyone offer that motion? You are out of luck, Rick.

COUNCILMAN WEBSTER: I am just reading the memo. This paving was not completed this year?

SUPERVISOR RINGLER: It was not.

COUNCILMAN WEBSTER: Okay.

The motion was made by Mr. Webster and seconded by Mr. Gunner to approve the transfer of \$10,500. from account no., A3410.2, Fire Equipment and account no. A3410.4, Fire Prevention Contractual to account no. HS9901.9, Fire Tower Reserve Fund.

COUNCILMAN GUNNER: I will second it but I have a question.

SUPERVISOR RINGLER: Okay, go for it.

COUNCILMAN GUNNER: Where is this area?

SUPERVISOR RINGLER: This is at the fire training tower.

COUNCILMAN GUNNER: Oh, I know that but there is a lot of area at the fire training center. I mean, whereabouts is it.

MR. RICHARD WEBSTER: There is a new access road coming in... where you are going down the road, it is going up to the right and coming into the tower on the right hand side. You can see the gravel base is already been put in. This was blacktop going on top of that gravel base.

COUNCILMAN GUNNER: And, this wasn't done for what reason, Rick?

MR. R. WEBSTER: We ran out of time this fall. The weather turned bad sooner than we thought and the Highway Department got busy and we just weren't able to complete the blacktopping project.

COUNCILMAN GUNNER: And, that was in the original budget for the blacktopping?

MR. R. WEBSTER: Yes, in the fire officers training budget, not in the Highway budget.

COUNCILMAN GUNNER: Okay.

SUPERVISOR RINGLER: Okay. All in favor?

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

Noes: None.

Set Public
Hearing
Senior
Tax Exemption

SUPERVISOR RINGLER: Next I would like to consider setting a public hearing for proposed local law number 7 of 1992 -- this actually may turn out to be local law number 1 of 1993 -- because we are not able to have a public hearing until next year. Okay, so that will have to be changed. Okay?

TOWN CLERK NEWKIRK: Yes.

SUPERVISOR RINGLER: To set increase in senior citizen tax exemption. The State Legislature, once again, has authorized the municipalities to increase the amount of the senior exemption and it is going to go up from the maximum 50 percent from about... for \$15,000 to \$16,500. We have to do that by local law, we would have to set a public hearing on it and I recommend we do that on January 13th at 7:30 p.m. Anyone like to make a motion setting that public hearing?

The motion was made by Mr. Gunner and seconded by Ms. Galvin to set a public hearing for January 13, 1993 at 7:30 p.m. to consider Local Law No. 1 of 1993 amending Chapter 111 Taxation - Article I Section

111.1 of the Code of the Town of Bethlehem permitting a partial real property tax exemption to persons who turn age 65 between March 1 and December 31 of a calendar year. The motion was passed by the following vote:

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

SUPERVISOR RINGLER: Next a request from Kathleen Newkirk, Town Clerk, for transfer of funds from account A1410.4 Contractual to A1410.2 Equipment in the amount of \$186.37.

Transfer
of Funds
Town Clerk

The motion was made by Ms. Galvin and seconded by Mrs. Fuller to approve the transfer of \$186.37 from account number A1410.4, Contractual, to account number A1410.2, Equipment.

COUNCILMAN GUNNER: Get that chair as soon as you can.

TOWN CLERK NEWKIRK: Thank you.

COUNCILMAN WEBSTER: Is that one of the old famous chairs?

COUNCILWOMAN GALVIN: Disasters.

TOWN CLERK NEWKIRK: Yes.

SUPERVISOR RINGLER: Move that to my office. Further discussion? All in favor?

The motion was passed by the following vote:

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

SUPERVISOR RINGLER: Next a request from Bruce Secor, Commissioner of Public Works, for award of bid for one emergency generator and related switch gear and wiring for the Water Purification Plant in New Salem to the low bidder, Stilsing Electric.

Award Bid
Emergency
Generator

The motion was made by Mrs. Fuller and seconded by Mr. Gunner to approve the award of the bid for one emergency generator and related switch gear and wiring for the Water Purification Plant, New Salem, to Stilsing Electric, the low bidder.

COUNCILWOMAN GALVIN: I have a problem. This is another time when we have a bid being submitted that is not in proper form. Either we are not getting through to people who are submitting bids or we have been lax in the past in following up and rejecting bids when they weren't complete. I notice that the low bidder did everything right with the exception of failing to provide the warranty papers. Again, from the material that was submitted, that was a very specific requirement under apparently section 1-06 of the specs and it says the warranty document shall be submitted with the contractor's proposal and no deductibles shall be applied to said warranty. Are there any deductibles on the warranty as it was submitted to you?

MR. SECOR: No. The bid he submitted met the specifications and as I said in the memo, I had him submit the warranty papers coming along. Every bid that comes before the Board, there is a bid tabulation in the majority of those tabulations, there are flaws in some of the bids. It just happens with every bid and that is why the wording in the document says that the Town Board reserves the right to waive informalities or reject any and all bids. As I am saying, it's a decision of the Board to decide whether this is a major flaw and go through. We had 12 bidders, it was an excellent turn out but as I showed you in the tabulation, out of 12 bidders, we had zero that did it right. But, the low bidder, the flaw, I think, is a very minor flaw. It didn't give him any advantage and again, I called Mr.

Kaplowitz and talked to him and I made the recommendation. It is just something the Board is going to have to do. I think it is a mistake to continually rebid these things because we run the risk of not having people give us their best price the first time around if they think we are just keep putting their prices back out on the street. I agree with what you are saying, Ms. Galvin, is that we should hold the bidders to a very stern review as far as if they are... for example, the second low bidder did not give us prices for a couple of the items, obviously we can't accept that, it is an incomplete bid. But, the low bidder did give us all the prices that are required but they just overlooked putting the warranty papers in with the envelope.

SUPERVISOR RINGLER: Bernie, would you like to comment on that.

ATTORNEY KAPLOWITZ: Well, we have been through it before, Bruce and I did discuss it. It is an irregularity. The system is designed to do 2 things -- create a level playing field and to obtain for the Town the lowest price. There is no way that anyone could conceivably, I think in this situation, could argue that any of the bidders gained some kind of unfair advantage although I think it is an irregularity that the Board has every right to waive, so to speak and I would recommend it in this case.

SUPERVISOR RINGLER: Okay.

ATTORNEY KAPLOWITZ: The cost of rebidding and going through the whole process just isn't worth it to the Town, just doesn't make any sense.

COUNCILWOMAN GALVIN: I have much less problem with this since it was a requirement of the specs as opposed to a requirement of the bid documents on their face. But, I think that it needs to be communicated to the people who regularly do submit bids to the Town that fulfilling the requirements of the bid documents is mandatory. It is not something that is nice, it is not something that we would like to see, it is something that is required. And, I think in the future, we should make sure that there is, at least as close to adherence to the documents as bid as possible. This has been happening far too often and...

MR. SECOR: Well, as I said, it happens on almost every letting that you have, you are going to have some of the bidders whose documents are incomplete.

COUNCILWOMAN GALVIN: Oh, I agree, there is always some bidder or bidders who have a problem and generally they learn to get it right when they are rejected. The problem is we consistently seem to have people who come back and it's a constant error.

SUPERVISOR RINGLER: Is that the case?

MR. SECOR: No. I really don't think that is true. This bidder, Stilsing, has got... been low bidder over the last 5 years in maybe 2 or 3 jobs and I would have to go back and look at the bid tabs but, again, because of the requirements of State law, there has to be a prime electric, a prime general -- you know, the 3 primes, so you can look at the bid tabs going back into the 1950s and 1960s and you will still see a formal tabulation with a note of irregularities on each one of them. And, the only problem you really get into is that the low bidder has irregularities but that is the one you have to look the hardest at.

COUNCILWOMAN GALVIN: I would still like to see us do it right.

SUPERVISOR RINGLER: I don't think we are not doing it right.

MR. SECOR: No, we are not doing anything wrong.

COUNCILWOMAN GALVIN: Well, I think we have to communicate very clearly with the people who we're doing business with that it is imperative to make their submissions correct.

MR. SECOR: One of the things I think is happening is because the market is so tight, we never would have gotten 12 bids in a normal market. We would have been lucky to get 2 or 3. With the market as competitive as it is, you have a number of firms -- some firms who are stretching their upper limits to get to these jobs and may not be familiar with the formal formalities of municipal bidding and you have other people who are in the business. But, a number of these bidders, out of 12 of them, 10 of those people do this for a living and they still didn't get it right. So, I agree with you, but at the same time, life has to go on here. I think we should award to the low bidder and move forward.

SUPERVISOR RINGLER: Okay. We have a motion and a second, all in favor?

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

Noes: None.

SUPERVISOR RINGLER: Thank you.

SUPERVISOR RINGLER: Okay, next we have a request from Mr. Sagendorph, Highway Superintendent, for permission to go to bid for the purchase of gasoline, diesel fuel and heating oil for various departments within the Town. Could advertise December 16th, open bids December 29 at 2:00 p.m.

Go To Bid
Gasoline,
Diesel Fuel
and
Heating Oil

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

WHEREAS, the Town desires to advertise for bids for gasoline, diesel fuel and fuel oil for the year 1993, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 16th day of December, 1992 and that bids be received up to 2:00 p.m. on the 29th day of December, 1992 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

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

Noes: None.

SUPERVISOR RINGLER: Next I have a recommendation from Mr. Sagendorph to award the bid for tree work to Donovan Tree Service of Mechanicville, NY, the low bidder.

Award Bid
Tree work

The motion was made by Mrs. Fuller and seconded by Mr. Webster that the bid for tree work be and it hereby is awarded to Donovan Tree Service, Mechanicville, NY, the low bidder. The motion was passed by the following vote:

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

Noes: None.

SUPERVISOR RINGLER: Next is a recommendation from Mr. Sagendorph to award the bid for one emergency standby generator for the Highway Department to Southworth-Milton, Inc. of Albany, low bid \$21,990.

Award Bid
Emergency
Standby
Generator
Highway
Dept.

The motion was made by Mr. Webster and seconded by Mr. Gunner that the bid for one emergency standby generator for the Highway Department be and it hereby is awarded to Southworth-Hilton, Inc., Albany, New York at a price of \$21,990. The motion was passed by the following vote:

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

Transfer
of Funds
Highway
Dept.

SUPERVISOR RINGLER: Next a request from Mr. Sagendorph, Highway Superintendent, for transfer of funds and I will go through the list on those. This, as we know, happens at this time of the year at the end of the budget cycle. As we have under spent in one category and possibly overspending in another, transfers have to be made as budgets are estimates and we do pretty close but we do need transfers at the end of the year.

Health Insurance - \$5,000 - to Workmen's Compensation \$5,000.
Health Insurance - \$1,000 - to Disability Insurance \$1,000.
Highway Garage Equipment - \$3,000, Sanitation Personnel - \$4,000 - to Highway Administration \$7,000.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that transfers in the following amounts be approved for the Highway Department:

Health Insurance - \$5,000 - to Workmen's Compensation \$5,000.
Health Insurance - \$1,000 - to Disability Insurance \$1,000.
Highway Garage Equipment - \$3,000, Sanitation Personnel - \$4,000 - to Highway Administration \$7,000.

The motion was passed by the following vote:

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

Transfer
of Funds
Comptroller

SUPERVISOR RINGLER: Next a request from Mr. Webster, Deputy Comptroller, for various transfer of funds.

Contingent Account \$2,000 to Town Board Contractual \$2,000;
Contingent Account, and this is a change \$20,500 to Elections \$20,500;
Public Health Contingent Account \$2,000 to Public Health \$2,000;
Street Lighting, Contingent Account \$15,100 to Street Lighting \$15,100; Contingent Account \$3,100 to Debt Service \$3,100.

The motion was made by Mrs. Fuller and seconded by Mr. Gunner that the following transfers be and they hereby are approved:

Contingent Account \$2,000 to Town Board Contractual \$2,000;
Contingent Account, and this is a change \$20,500 to Elections \$20,500;
Public Health Contingent Account \$2,000 to Public Health \$2,000;
Street Lighting, Contingent Account \$15,100 to Street Lighting \$15,100; Contingent Account \$3,100 to Debt Service \$3,100.

SUPERVISOR RINGLER: Further discussion?

COUNCILWOMAN GALVIN: I have a question on the Elections from contingent account, the \$20,500 that was just changed, moving from Contingent to Elections. I notice in there that this refers to the expense of the referendum on the proposal for the waste-to-energy plant, in addition to the spring primary. Can you tell me what the division of the cost was? How much of that is attributable to the referendum and how much to the spring primary?

SUPERVISOR RINGLER: Comptroller's office?

MRS. KEHOE: The referendum was about \$7,000 of that total. I can give you the exact figure tomorrow.

COUNCILWOMAN GALVIN: Well, the reason I ask is I remember when we voted to have the referendum I thought we had a cost estimate of between \$3,000 and \$3,500. What ran it up?

MRS. KEHOE: I will have to go back and look at the detail. Off the top of my head I can't answer that.

COUNCILWOMAN GALVIN: Because I remember asking the question as to what the cost would be and it was between \$3,000 and \$3,500. I went back and checked the minutes.

TOWN CLERK NEWKIRK: Which was also an estimate.

COUNCILWOMAN GALVIN: I was wondering where the extra \$4,000 came from.

SUPERVISOR RINGLER: I think when... I can recall you asking that question, Kathy was trying to give you a ball park from one of the other elections but I...

COUNCILWOMAN GALVIN: I was just wondering why it was just so much higher than one of the other elections.

MR. R. WEBSTER: If I recall correctly, a primary is run almost exactly what that referendum was so it would constitute the same amount of workers. I am not sure where that other figure ever came from. I never heard that.

SUPERVISOR RINGLER: It was one off the top of the head of Kathy, I think at a meeting.

TOWN CLERK NEWKIRK: Well, the referendum actually wound up to be less because we only used election inspectors in half capacity.

SUPERVISOR RINGLER: But, be assured, that that is what it cost.

COUNCILWOMAN GALVIN: Yes.

SUPERVISOR RINGLER: Okay, we have a motion and a second, all in favor?

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

Noes: None.

SUPERVISOR RINGLER: Next we have a request from Chief LaChappelle to authorize Officers McMillen, Linstruth and Bowdish to attend DARE Officers Conference at West Point, January 15 through the 17th with transportation by police vehicle.

DARE
Conference
Police
Dept.

The motion was made by Mrs. Fuller and seconded by Ms. Galvin that Officers McMillen, Linstruth and Bowdish be and they hereby are approved to attend the DARE Officers Conference, West Point, NY, January 15 through 17, 1993 with transportation by police vehicle. The motion was passed by the following vote:

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

Noes: None.

SUPERVISOR RINGLER: Next I have a recommendation from Mr. Secor, Commissioner of Public Works, for extension of the building project approval for Juniper Fields, Adams Station, BPA 19-A with the condition that a replacement of Letter of Credit or cash deposit in the amount of \$75,000 be required before the issuance of any further building permits. That is an extension until June of 1994. Anyone offer that motion?

Extend BPA
Juniper
Fields,
Adams Station
and
Replacement of
Letter of
Credit or
Cash Deposit

The motion was made by Mr. Webster and seconded by Mr. Gunner to approve the extension of Building Project Approval No. 19-A, Juniper Fields, Adams Station until June 1994 with the provision of a replacement Letter of Credit or cash deposit in the amount of \$75,000 be required before the issuance of any further building permits. The motion was passed by the following vote:

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

SUPERVISOR RINGLER: Next I have a recommendation from Mr. Lipnicky, Town Planner, to consider proposed Local Law to extend the current Interim Development Density Act. We have to set a public hearing on that. If we are going to do that, recommend January 17th at 7:45 p.m.

COUNCILWOMAN GALVIN: Is it correct that this expires December 30th?

SUPERVISOR RINGLER: Yes.

COUNCILMAN GUNNER: When are you going to have the public hearing?

SUPERVISOR RINGLER: We can't have it until January 13th because of advertising. This should not be a problem though because there is nothing before us at this point.

Set Public Hearing To Consider Local Law No. 2, 1993 Re: Interim Development Density Act. The motion was made by Mr. Webster and seconded by Mrs. Fuller to set a public hearing on January 13, 1993 at 7:45 p.m. to consider Local Law No. 2 of the year 1993 amending Local Law No. 5 of the year 1989 which establishes an interim development density act and Local Law No. 7 of the year 1991 which extends such act. The motion was passed by the following vote:

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

COUNCILWOMAN GALVIN: I have a question on this, why are we considering extending it?

Discussion Interim Develop. Density Act Extension SUPERVISOR RINGLER: Because we don't have final recommendations as to what the lot sizes should be and until we do, rather than go back to having very small lot sizes compared to all the other municipalities, I think that we should extend this until we get it in final code form.

COUNCILWOMAN GALVIN: Talking about getting it in final code form, we don't even have a report from LUMAC at this stage. We are looking at March for getting a report from LUMAC and after that we are talking about a substantial time period in review of the LUMAC proposals by the Planning Board, by this Board, public hearings that would be required in relation to any proposed changes -- we are talking about a significant period of time before we would be seeing what you've referred to as the codification of any such change. What is the justification for extending this when we don't even have a proposal in hand?

SUPERVISOR RINGLER: I think I just said that. That, you know, our lot sizes -- this Board and the Planning Board had determined that our lot sizes were much, much too small and it was decided rather than change the code in permanent form, that we do change it, we did change it and it is in a temporary form until we get a final recommendation, then it will be put in final form. We could put this in final form right now, if the Board so liked it.

COUNCILWOMAN GALVIN: I would like to address the next question to Bernie. Bernie, what is your view in terms of extension of this type of interim legislation where interim has been going on for years?

ATTORNEY KAPLOWITZ: Well, as you know, it is a question of how long can you justify it. In other way to do it, same result, would be to make it a permanent, make the present lot sizes...

SUPERVISOR RINGLER: This isn't a taking, though, is it?

COUNCILWOMAN GALVIN: It could be, Ken.

ATTORNEY KAPLOWITZ: No, I don't think so, I think that is really stretching to call it a taking. I don't think there is any problem legally, Sheila, with doing it. It doesn't make any sense to leave things as they are or go back to the old lot sizes which are substantially smaller.

COUNCILWOMAN GALVIN: Bernie, how do you justify it in terms of the existing line of case law?

ATTORNEY KAPLOWITZ: Let me ask you something, would you rather have the old, small lot sizes come back?

COUNCILWOMAN GALVIN: If it were other... if it were to avoid a taking, if it were to avoid the potential litigation involved in having this determined to be a taking, given the existing cases, I mean we are talking about a whole line of cases that look at this type of interim legislation as potentially constituting a taking.

ATTORNEY KAPLOWITZ: I don't agree with you that that is a taking, whether the cases even say that.

COUNCILWOMAN GALVIN: Well, are you acquainted with the Russo case?

ATTORNEY KAPLOWITZ: The bulk of the cases still hold, as long as you are leaving something reasonable to be done with the land, then you don't have a taking. And, that was the general principal for a long time and I think still is. There have been some inroads, I agree, but I don't think we're in any danger by raising lot sizes. The towns around us have been doing it regularly.

SUPERVISOR RINGLER: Most of them are bigger.

COUNCILWOMAN GALVIN: The problem is it's not the size of the lot and it's not the fact that we don't have the right to change the lot size. The problem is we've been messing around with this as an interim law saying that it was based on the fact that LUMAC was out there considering and sometime in the future going to report to us. We don't have the report as of this time. We've extended, we've extended and we are about to extend again. I have a problem where we're leaving people in limbo. If we are going to change the lot sizes, why don't we change the lot sizes.

ATTORNEY KAPLOWITZ: I said that. That's a distinct possibility in my mind. If you want to change them and use these as and make them permanent you have the same result. I don't think it's a big problem either way. Is there any reason, Jeff, for doing it on a temporary basis?

MR. LIPNICKY: If you recall, if you go back to the original discussion surrounding this, okay, the original discussions were just to amend the zoning code and institute new lot size requirements for the zoning code at these types of densities, and upon more thought and reflection of doing that, it was really determined well, that's going to cause somewhat of a problem if we do something like that because if we do that, you know -- to take the AAA standards, for example, and go from the twenty thousand to the thirty-five thousand and just adopt that flat out, what we wound up doing is creating really what amounts to a lot of nonconformity in certain areas of Town, specifically those areas of Town that have already developed and were already in that zoning district. So we've created a lot of nonconforming lot sizes all over Town by doing it; so instead it was decided well, instead of approaching it that way, why don't we approach it in terms of doing an internal ordinance which basically says that any new development within the zoning districts will be held to this standard but all existing lots will be held to the previous standard. And that was basically the reason to do it. The other reason was that we could create new zoning districts with these new standards and leave the old areas of Town in their current zones but by the time we got around to writing all the descriptions and everything else, it probably wasn't worthwhile -- the effort -- when we can attack it and do it in a short-term fashion with a simple type of local law. So that was really the justification of not making it permanent in the beginning.

COUNCILWOMAN GALVIN: Jeff, how do you distinguish this from the twenty-five lot limitation?

MR. LIPNICKY: I personally don't think there's any comparison. I think the background investigation that was done by Mr. Kleinke with respect to other communities, the extensive discussion at the Planning Board level that was held when we did this, certainly raises the justification for larger lot sizes in Town and we have areas in Town that have soils that are unsuitable for septic, that don't have water and yet they're allowed lots of a quarter acre or less where there is potential contamination of ground water wells from the septic systems. I think there's a great deal of justification for doing this ordinance here. The other ordinance is different, I think, in that what we're doing is, we're temporarily in the other case saying that you can really -- I mean we're leaving people the use of their property but by the same token we're saying you can only use a portion of it, okay.

COUNCILWOMAN GALVIN: So what's the difference?

MR. LIPNICKY: Well, in this particular instance we're saying you have the use of the whole property but here's the standard that you have to abide by. You want to go out and develop everything right now with this standard that's fine. Under the other ordinance we're saying you can only develop so much at a time.

ATTORNEY KAPLOWITZ: I don't think the problem is so much from a slightly different perspective, so much a problem of a taking as it is justifying a voluntary, temporary moratorium in a sense, in that how long do you have that's reasonable. But the outcome, the worst that can happen is if the developer decided to move and set it aside on the basis that it wasn't justified, you can go ahead and adopt it as an appropriate measure either now or at that time. I don't see any great harm either way.

MR. LIPNICKY: I don't view this as a moratorium at all.

ATTORNEY KAPLOWITZ: Not in that sense. Do you view it as a taking?

MR. LIPNICKY: No, absolutely not.

ATTORNEY KAPLOWITZ: I don't either.

MR. LIPNICKY: But I mean, we can go out and if we are justified raise lot sizes to 10 or 20 acres as long as there is justification for it.

COUNCILWOMAN GALVIN: Well, then, are you saying we are not... we are or we aren't justified in what we are proposing as a permanent measure?

MR. LIPNICKY: Are we justified in proposing this as a permanent measure?

COUNCILWOMAN GALVIN: Right.

MR. LIPNICKY: I think yes, I'm not sure it's the best permanent measure though.

ATTORNEY KAPLOWITZ: Well, that has to wait the outcome of LUMAC right and a lot of other deliberations.

MR. LIPNICKY: Yes.

COUNCILMAN GUNNER: That brings up my question. I would like to know, Jeff, I know that you may not be ready to give a report but is there any way that we can get any indication of which way LUMAC is going because we are going to have the hearing in January. We possibly won't be acting until February so you must have everything in rough form, it's not the way you can give us an indication. I realize you can't give us a finality until the report is finished on this issue.

MR. LIPNICKY: Well, it depends on what area of Town you are speaking about. If you're talking again about areas of Town that don't have water and sewer; that have very severe constraints for septic systems and the like, you're talking about going probably beyond lot sizes that are in here. If you're talking about already developed areas of Town where there are just vacant lots in Town or vacant parcels in Town that have access to water and sewer, that have access to transportation and the like, what you'll probably find is that the lot sizes in those areas will be comparable to the existing lot sizes as they are in the zoning code.

COUNCILMAN GUNNER: Specifically, how would you expect LUMAC to adjust this?

MR. LIPNICKY: I'm not sure that I'm following that question.

SUPERVISOR RINGLER: How would you expect LUMAC to go on lot sizes? I think is what you're saying, Charlie.

COUNCILMAN GUNNER: Yes.

MR. LIPNICKY: Yes, but it depends on what area of Town. I can't say that the whole Town should be zoned one thing.

COUNCILMAN GUNNER: I don't think were saying that. Can you put that into writing? I mean... we're holding it up partially because we want to hear something from LUMAC and now I'm hearing that what we may hear will be altogether... there is no way you can describe it. That's what I hear coming out of you right now. Up until now I was going fine but that's bothering me a little bit.

MR. LIPNICKY: Right here and now I can't explain it in a short amount of time in terms of which areas of the Town should be zoned. The answer is no.

COUNCILMAN GUNNER: I don't want to know which areas of Town. Your answer is "no".

MR. LIPNICKY: Right.

COUNCILMAN GUNNER: You can't explain that, right...

MR. LIPNICKY: Right now, no.

COUNCILMAN GUNNER: But, the interim density does.

MR. LIPNICKY: No. What the interim density does not explain what areas of Town can be zoned what.

COUNCILMAN GUNNER: No, I know that, that is what I am saying.

MR. LIPNICKY: All it says is essentially that the bottom line is that the existing lot sizes in Town are too small when compared to other communities that surround us and it is a kind of blanket approach to raising lot sizes throughout the Town in terms of residential development.

COUNCILMAN GUNNER: Let me try and simplify the question for you. We're going to have to vote on something to continue it for -- have we set any time?

SUPERVISOR RINGLER: What's that proposal say, a year?

MR. LIPNICKY: It is a year.

COUNCILMAN GUNNER: It's a year. Will we need the year? Is LUMAC addressing it? Are they going to make a recommendation so that we know. We are going to be voting on something we don't know how long we have to do it for.

MR. LIPNICKY: Yes, in March LUMAC is going to make...

COUNCILMAN GUNNER: We will have A recommendation.

MR. LIPNICKY: ... a recommendation that specifically says what areas of Town should be zoned by the different lot lines throughout the Town. If you're asking me to tell you what that is right now, that I can't tell you.

COUNCILMAN GUNNER: I'm not asking that.

MR. LIPNICKY: Okay.

COUNCILMAN WEBSTER: But sometime within that year we certainly will be able to make a final decision on what we want for lot sizes by all areas.

MR. LIPNICKY: That's correct.

COUNCILMAN GUNNER: Not within six months.

MR. LIPNICKY: I would say it would be impossible to go through this public hearing process and everything else.

COUNCILMAN GUNNER: Thank you. I got my answer, I got where I wanted to go.

COUNCILMAN WEBSTER: A year would be sufficient?

SUPERVISOR RINGLER: That would depend on us.

MR. LIPNICKY: Yes, and what public reaction is.

SUPERVISOR RINGLER: Right and what public reaction to what the proposal is.

COUNCILMAN WEBSTER: We will have the recommendation though?

MR. LIPNICKY: Yes.

COUNCILMAN GUNNER: That's what I was trying to get. Thank you.

MR. LIPNICKY: Sorry, that was a long way around answering your question, I guess.

COUNCILWOMAN GALVIN: Jeff, you said that the interim development density, as set forth in the local law that we're proposing to discuss for extension, applies as a blanket to the whole Town, right?

MR. LIPNICKY: Except in unzoned areas.

COUNCILMAN GALVIN: Okay and basically what you're telling us now is that the lot size may or may not turn out to be appropriate in certain areas of Town, right?

MR. LIPNICKY: As suggested in here or as in here?

COUNCILWOMAN GALVIN: As enacted in here, not suggested, as enacted in here.

MR. LIPNICKY: That's correct but, but, but you have to consider that all that does is take the existing zoning districts and increases lot sizes in those existing districts, okay. So the problem is not necessarily that the interim law doesn't address it correctly but it's that the existing zoning code and zoning ordinance and zoning map don't necessarily address it correctly.

COUNCILWOMAN GALVIN: I'm just asking you -- you're saying that this lot size ultimately may be found to not be a correct -- and I'm using that term loosely -- lot size for a given area of Town or more than one given...

MR. LIPNICKY: In general, the answer is yes.

COUNCILWOMAN GALVIN: Then, in certain instances, it's your position that the lot size as contained in the interim local law would be too large, is that right?

MR. LIPNICKY: That certainly could occur in some areas of Town.

COUNCILWOMAN GALVIN: So with respect to the people who have been held up from building on lots in those areas where it was later found that this lot size as is in the interim local law, is too large -- aren't we now taking that property from those people through this interim law? Taking that use from them?

MR. LIPNICKY: I don't believe so at all because we have a zoning code where reasonable people can disagree as to what an appropriate lot size is in the existing code. Does that constitute taking? I don't think so.

MR. SECOR: May I say something. I think you're question asks two things and part of it is not a correct part of the question. You said existing lots, if there's an existing lot...

COUNCILWOMAN GALVIN: Existing parcels.

MR. SECOR: All right, that's a different question. If it's an existing parcel and it comes in for subdivision, it would be subject to this and whether the lot sizes are appropriate or not appropriate is a decision the Board makes and that is your discretion.

COUNCILWOMAN GALVIN: No, but what my concern, Bruce, is we're talking about an interim act where we have now been told by Jeff that it is more than likely that in certain areas of Town this lot size will be found to be too large and ultimately a recommendation will be made for a smaller lot size. Now if that parcel ...

MR. SECOR: But your question is so general, it is very difficult to answer.

COUNCILWOMAN GALVIN: This is very general. I mean the interim act is very general too.

MR. LIPNICKY: But it goes beyond that too. I'm sure what's going to happen is that that zoning map... in certain areas on that zoning map, what's going to be found is the zoning code and the requirements in the zoning code are going to be too large also and other requirements of the zoning code are going to be inadequate. Now that doesn't necessarily follow that our zoning code is depriving somebody of the reasonable use of their land.

COUNCILWOMAN GALVIN: We're talking about two different things. We're talking about the existing zoning code and we're talking about interim legislation. Interim legislation that has been enacted for the purpose of establishing a lot size during a period of time when a recommendation is to be made. Now we're hearing, and this is the first time I'm hearing it, that there's more than likely going to be at least one or more areas of this Town where this lot size is going to be found to be too large, the recommendation is going to be for a smaller lot size. And where those parcels exist in relation to people owning those parcels, we're putting an interim requirement on them that is too strict and in that sense could be construed as being at least a taking or a partial taking.

MR. LIPNICKY: I don't agree with that at all and I can't see that logic at all.

SUPERVISOR RINGLER: Bernie doesn't agree with that either.

COUNCILMAN GUNNER: I don't see that as a taking. I think there might be a delay of six months or something like that.

SUPERVISOR RINGLER: No, it's reasonable use. They're using their land. They could use their land.

COUNCILWOMAN GALVIN: They can't use it. No, six months, Charlie is one thing. This goes back to 1989. That's what I'm talking about.

MR. SECOR: Again, Sheila, you're saying it's going to be found. What you're getting is just a recommendation for a change in lot size or change in zoning ordinance which is no more than a staff recommendation that you may have had for something else. I don't see

where you can call that a finding or it's a finding in fact. It's just a difference in opinion based on some other input.

MR. LIPNICKY: If some other group studied it, some other group may have a completely different opinion.

COUNCILWOMAN GALVIN: Well, this is the first time that I, as a Board Member, am hearing that there may be a recommendation for a smaller lot size than what we have been enforcing.

SUPERVISOR RINGLER: And there may not be.

ATTORNEY KAPLOWITZ: Yes, but we don't even know where. We don't know what part of Town that would refer to, do we?

COUNCILWOMAN GALVIN: That scares me even more, Bernie.

ATTORNEY KAPLOWITZ: You can't point to some place and say that ...

COUNCILMAN GUNNER: I would think logic would say the smaller lot sizes would be where there are adequate sewer and water facilities.

ATTORNEY KAPLOWITZ: That's generally one of the criteria, certainly, part of it.

SUPERVISOR RINGLER: It may not. You may find that when this study gets done that they're all increased beyond this. I mean I would hope that we can come up with something creative through LUMAC that we can find a way of affordable housing which may be smaller -- whether it's clustering concept and things like that. What we're saying is we want to put our code up to where other codes are right now and actually we're no where near some of them are. Guilderland went crazy I think with lot sizes a year or two ago and Clifton Park has been doing the same thing.

MR. LIPNICKY: New Scotland was discussing 5 acre lots.

SUPERVISOR RINGLER: Right, so I don't think we're out of the line here at all. I think we voted on this to set a public hearing, didn't we?

TOWN CLERK NEWKIRK: Yes, you did.

SUPERVISOR RINGLER: O.K. very good. Thank you.

COUNCILMAN GUNNER: By the way, I did like your comment to try to do something for low or moderate housing situations.

SUPERVISOR RINGLER: I think we should. We don't want all million dollar homes. That's not what this community is made up of. You and I wouldn't be here Charlie.

COUNCILMAN GUNNER: That's right.

Transfer
of Funds
Public
Works
Bond Funds

SUPERVISOR RINGLER: Next I have a request from Mr. Secor, Commissioner of Public Works, for transfer of funds from account G9730.6 BAN \$20,750.00 to account G9710.6 Serial Bonds Principal from account G9730.7 BAN \$231,200.00 to account G9710.7 Serial Bond Interest. In addition, we would like to set up an appropriation for \$47,625.00 and one additional transfer that is requested to move \$8500.00 from Sewer District Administration G8110.1 to Sewer Collection G8120.1. A motion on that?

COUNCILWOMAN GALVIN: It's a good thing the Comptroller is here because I have a question on this.

SUPERVISOR RINGLER: O.K. Go for it.

COUNCILWOMAN GALVIN: Judi, how are we moving various funds on different bonds from one account to another?

COMPTROLLER KEHOE: The main movement is coming from the bond anticipation note accounts over to the regular bond accounts -- the serial bonds.

COUNCILWOMAN GALVIN: It's the serial bonds flowing out of the bond anticipation notes.

COMPTROLLER KEHOE: Originally, when the budget was prepared, the serial bond that went through last November had not been finalized, so the budget was prepared as though the bond anticipation note was still out there. When the serial bonding went through, the bond anticipation note was paid off so this transfer is really just reclassifying between the BANS to the serial bonds.

COUNCILWOMAN GALVIN: But we're only going from one BAN to the serial bonds.

COMPTROLLER KEHOE: Those are the only two accounts that are set up within the sewer fund.

COUNCILWOMAN GALVIN: And the serial bonds are the ones that flow directly out of the BANS so we're not talking about...?

COMPTROLLER KEHOE: We're not talking about a change in purpose for the funds. All we're doing is recharacterizing the type of payment based on the actual note.

COUNCILWOMAN GALVIN: How did we come up with the \$47,625.00 shortfall.

COMPTROLLER KEHOE: When the bonding went through the amount was different than the original estimates. Again, you are working with your best guess at the time in preparing the budget -- the final bonding was different, either the rates had changed between when it was budgeted to the final amount.

COUNCILWOMAN GALVIN: I could understand that except I thought that these were the bonds that went through in November of '91. So we knew what the costs were.

MR. SECOR: No, because the budget would have been in place by November.

COMPTROLLER KEHOE: The budget would have been adopted.

COUNCILWOMAN GALVIN: But we knew what the costs were early in the year. When did we know what those costs were?

COMPTROLLER KEHOE: What the final cost of the bonding?

COUNCILWOMAN GALVIN: Right.

COMPTROLLER KEHOE: Final cost of the bonding wasn't until the bond note was signed which would have been in November of '91 so the budget had already gone through.

COUNCILWOMAN GALVIN: Oh, I understand that the budget process had gone through but why are we... did we know at that time that there was a \$47,000.00 shortfall?

SUPERVISOR RINGLER: I guess one of the problems is we got 2 different Comptrollers we are dealing with. Judi wasn't here.

COUNCILWOMAN GALVIN: No, see what my concern, Ken, is is we knew in November of '91, why are we waiting until now to make this budgetary correction?

MR. SECOR: Well, again, when we are dealing with BANS there is a different repayment schedule than with the serial bonds. When they... this is a combined serial bond issue. They had to negotiate a bond... a principal repayment schedule which differed from the principal repayment schedule you would have had with the BAN.

COUNCILWOMAN GALVIN: On the BANS.

MR. SECOR: Okay, so and then... I don't know what happened with the interest but to be quite honest, I never really realized that there was a \$47,000. shortfall until very recently.

COMPTROLLER KEHOE: And, the thing is, with those repayments on the bonds, that is normally something that would occur once, maybe twice during the year.

COUNCILWOMAN GALVIN: Twice a year.

COMPTROLLER KEHOE: So, this payment hasn't gone through to cause the overage until the end of the year which is why it has come to our attention, which is why we are requesting the transfer at this point.

COUNCILWOMAN GALVIN: Okay, that transfer... that second payment would have been either in November or the beginning of December.

COMPTROLLER KEHOE: It would have been in November, one year after the original serial bond date.

COUNCILWOMAN GALVIN: When did we find out about that potential problem?

COMPTROLLER KEHOE: In November, it wasn't until that point that I had gone through and done an analysis. It was in conjunction with the preparation of the budget for 1993, when I was looking at the debt service repayments and that is when I became aware of it and talked to Bruce about it. And, that is why we are recommending the transfer.

COUNCILWOMAN GALVIN: Are we straight in the 1993 budget for debt service repayments?

COMPTROLLER KEHOE: Yes, because we only have one BAN outstanding. There are no consolidations. We have established repayment schedules on the serial bonds so no surprises in '93.

COUNCILWOMAN GALVIN: What is the time frame on the outstanding BAN?

COMPTROLLER KEHOE: One year.

COUNCILWOMAN GALVIN: And, how much is left on that?

COMPTROLLER KEHOE: The 1.5 million dollar BAN that is outstanding is due to be repaid in March of '93 and that is on the water expansion facilities. So, the serial bonds on that should be going through at that time to pay that off.

COUNCILWOMAN GALVIN: Yes.

SUPERVISOR RINGLER: Okay, motion.

The motion was made by Mr. Gunner and seconded by Mr. Webster to approve the transfer of \$20,750. from account no. G9730.6, Bond Anticipation Notes, to account no. G9710.6, Serial Bonds Principle and \$231,200. from account no. G9730.7, Bond Anticipation Notes, to account no. G9710.7, Serial Bonds Interest; authorize the 1992 Sewer Fund Budget for debt service be increased by \$47,625.; and approve the transfer of \$8,500. from account no. G8110.1, Sewer District Administration to account no. G8120.1, Sewer Collection.

Further discussion? All in favor?

The motion was passed by the following vote:

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

SUPERVISOR RINGLER: Next I have a request from Mr. Secor, Commissioner of Public Works, for transfer of funds from account

F8310.1, Water District Administration to account F8320.4, Power and Supply, \$25,000.

The motion was made by Mrs. Fuller and seconded by Mr. Webster that \$25,000. be and it hereby is approved to be transferred from account no. F8310.1, Water District Administration to account no. F8320.4, Power and Supply.

Transfer of
Funds
Public Works

Further discussion? All in favor?

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

Noes: None.

COUNCILWOMAN GALVIN: This is not a new increase cost is it?

SUPERVISOR RINGLER: No.

COUNCILWOMAN GALVIN: It is the same one we heard about before.

SUPERVISOR RINGLER: Yes.

SUPERVISOR RINGLER: Next, we have discussion regarding North Street yard waste disposal site and request to consider Phase 1 site assessment. Bruce Secor, bring us up to date at what is going on over there.

Discussion
North Street
Yard Waste
Disposal Site

MR. SECOR: Yes, and Gregg Sagendorph should also. Monday we walked the site with the two people from DEC, Mr. Vics -- who is the normal inspector we see -- and his supervisor which was -- Reynolds?

MR. SAGENDORPH: Yes. Tom Reynolds.

MR. SECOR: We walked the old area of the site and looked around there and then went on and walked the new area of the site and we pointed out to them where we are proposing to put in the permit application for the yard waste disposal area. And, they didn't see any eminent dangers or problems. They wanted to see some follow-up done on the phase 1 assessment which I outlined for the Board in here and the proposal I have before the Board is to solicit proposals or price proposals from consulting engineering firms or from firms that have current experience with solid waste sites to get a price on doing a phase 1 assessment of the site which would be kind of a fact gathering tour to bring everything together, give us some quantities on the site. It would also do the initial soil sampling and surface water sampling to tie down what the situation is.

The people from ENCON recommended that we not touch anything on the site or do anything until this phase 1 report is done and that we have an action plan which they have reviewed and agreed to and which the Board has reviewed and agreed to. I pointed out to them that since the site is privately owned and the part that we are leasing does not include the old area of the landfill, is that there may be some area outside of the leased area which is still part of old landfill and so they, again, recommended that the phase 1 report include the entire site which I have also recommended to the Board because there isn't that much difference in cost and then we would have one comprehensive document to look at the whole site.

COUNCILWOMAN GALVIN: Bruce, when you say including the entire site, you are talking about including the area for the proposed newer and the old dump area.

MR. SECOR: That is correct. In other words, it is all contiguous.

COUNCILWOMAN GALVIN: The entire site.

MR. SECOR: It is all on one property and it is contiguous. It is just that the new area is kind of to the north and the old area is just as you drive into the gate on the left. I have asked Mr. Cirillo to go back through all of the old leases to see if there is any mapping or meets and bounds description with each of the leases

and to make a plotted overlay so we can see if there is enough information to plot where each lease was and we are also going to go back through the records to see if we have any historical records on areas -- you know, which areas were built in which years.

COUNCILWOMAN GALVIN: At that November 30th Hudson Avenue Homeowners Association meeting that you attended and Gregg was there and I was there also, there was a lot of discussion concerning the closure and the potential application for the closure permit. At that time, you indicated that -- I thought you were not going to include the work with respect to the closure permit in the current application process, is that correct? But, that has changed?

MR. SECOR: No. They are still separate actions. The action to request a permit for a yard waste disposal area is a action and it comes in under one part of the 360 regs. A look at a phase 1 site report or whatever and eventually looking at whether or not remediation or a closure plan is required, is really a separate action and although we are on the same parcel there, they are adjoining site. They are adjacent to each other but they are really separate.

COUNCILWOMAN GALVIN: So, what is your phase 1 assessment going to look at.

MR. SECOR: The Phase 1 is an assessment of the entire site -- to identify the entire site and identify where old dumping areas are, where just yard waste is and where the new proposed area is -- so we have one document that will show everything on one piece of paper and that would be this Phase 1 report. Again, I am asking to get somebody in from the outside to do that.

COUNCILWOMAN GALVIN: But the phase 1 report would also look to the area that would be subject to the closure permit?

MR. SECOR: Yes.

SUPERVISOR RINGLER: Are we subject to a closure permit?

MR. SECOR: Well, no, again the area that would be subject to review for closure is all included. It will include everything on the site where the dumping has occurred, on the Wright property. And, then -- but the permitting applications, they're... we really should be looking at the yard waste disposal permit because that is a separate permitting action. And then the other site to look at if remediation is required, what remediation is and come up with an action plan for remediation and possible closure.

COUNCILWOMAN GALVIN: Now you are talking about two different things.

MR. SECOR: It is and it is...

COUNCILWOMAN GALVIN: No, no, no, no, two different things with respect to the yard waste disposal permit. Monday night, the 30th, you were talking about a different type of permit under the 360 regs. You were talking about basically a more extensive permit.

MR. SECOR: It is still a yard waste disposal... we are looking for a yard waste disposal permit under the 360 regs. This other activity... the other area that has to be looked at would be looked at under a remediation plan, if one was required.

COUNCILWOMAN GALVIN: What is the yard waste disposal permit going to be titled by EnCon?

MR. SECOR: It is going to be titled like a type of landfill. It is a type of a landfill.

SUPERVISOR RINGLER: There is some confusion on DEC's part as to what we actually had to apply for right from the start.

COUNCILWOMAN GALVIN: That is what I am trying to get to.

SUPERVISOR RINGLER: All right.

COUNCILWOMAN GALVIN: What are we applying for? Just yard waste and what are they going to call it?

MR. SECOR: We are applying for... they are going to put a label on it yard waste disposal site or yard waste disposal landfill. I don't know, I will tell you when I get the permit back what they are going to call it because I have gotten one answer from Regulatory Affairs and one answer from somebody else and so I don't know. There is nothing in 360 that has a name for that and they will just come out. Yes, Charlie.

COUNCILMAN GUNNER: Your intent and our direction is that remains under all conditions nothing more than a brush and leaf...

MR. SECOR: And, yard waste.

COUNCILWOMAN GALVIN: When you say remains, Charlie, you were not at the November 30th presentation and I think that...

COUNCILMAN GUNNER: Oh, okay.

COUNCILWOMAN GALVIN: Some of the visual aids that were presented were rather clear.

COUNCILMAN GUNNER: I am saying the new portion.

MR. SECOR: But, again, you are mixing the old area and the new area.

COUNCILMAN GUNNER: I am talking about the new portion. I think we have to get a study to know what is there in the other one, yes.

MR. SECOR: The new portion is yard waste.

COUNCILMAN WEBSTER: Our permit will be restricted to yard waste.

COUNCILMAN GUNNER: That is what... okay.

MR. SECOR: Yes, that is what we have been talking about all along.

COUNCILWOMAN GALVIN: Bruce, you have seen the video.

MR. SECOR: Oh, yes and I have walked the site a number of times. And, Mr. Duclos is here and we went over this. There are some things there in the old section which you have to look at in time perspective. If you see an old tire, was that old tire dumped legally or illegally. And the question comes, I don't know when it went there. If it was dumped prior to 1974, it probably was dumped legally.

COUNCILWOMAN GALVIN: Well, what I am talking about specifically, there were signs of percolation in the ground and...

MR. SECOR: Well and that... the only percolation in the ground, again we walked the whole site. There is some liquid coming out down near the yard waste areas. The ENCON people looked at it...

COUNCILWOMAN GALVIN: Near the yard waste area.

MR. SECOR: Near the yard waste area and they looked at it and said no, this is typical leachate you get from decomposing yard waste or whatever. They suggested we test it and I am suggesting that in that Phase 1 analysis that we look at it. But, we found no outbreaks or leachate or anything of that kind up in the old area of the landfill which is one of the things we were most concerned about. And, again, I don't know, Joe, if you saw any of that but up in the old area as you just come into the property, we walked that whole thing up and down and walked around and every where, there is nothing there.

COUNCILWOMAN GALVIN: But, the benefit of the other members of the Board who were not there on Monday night, I would like to ask Joe if he would...

SUPERVISOR RINGLER: Do you guys want to see this? I have walked the site.

COUNCILMAN WEBSTER: I have walked the site.

SUPERVISOR RINGLER: Mrs. Fuller?

COUNCILWOMAN FULLER: What is it we are looking at?

SUPERVISOR RINGLER: The videos of...

COUNCILWOMAN GALVIN: The video that was shown, it is a very short video, that was shown at the November 30th Hudson Avenue Homeowners.

COUNCILWOMAN FULLER: I have seen some of it. The oil gallon tanks over there, tires. Correct? Is this the...

COUNCILWOMAN GALVIN: I don't know what you have seen.

COUNCILWOMAN FULLER: Whose video?

MR. DUCLOS: It includes a lot more than just oil tanks. It includes everything, not everything but it includes a good indication of the dumping over the years.

COUNCILMAN WEBSTER: I think with or without the video, I see no reason why not to go forward with this proposal.

SUPERVISOR RINGLER: Right, I think we should too.

COUNCILMAN WEBSTER: I think it's...

MRS. CAPONE: Why can't we see it?

COUNCILWOMAN GALVIN: There is a big issue here, Fred, as to whether... exactly what we are going forward with. We are talking about going forward with a permit application for yard waste.

COUNCILMAN WEBSTER: Right.

COUNCILWOMAN GALVIN: But, now that EnCon has been out and I would like to see a copy of whatever report EnCon has submitted as a result...

MR. SECOR: Well, they haven't done anything yet.

COUNCILWOMAN GALVIN: Of Monday's walk of the site. I request that that be provided to us when it comes out. I think that we have got to look at moving the closure or whatever remediation is necessary for that portion of the site that is a dump. And, there is no other way of labeling that remaining area. It was a dump, it is a dump and something has to be done with it. And, it has to be done under the existing 360 regs. I think that we have to at the same time as we look at authorizing a phase 1 site assessment to include the whole area. We are also talking about authorizing, proceeding with the permit application and in that regard, I would like to see looking at closure and remediation simultaneously. There is no reason that you can't...

MR. SECOR: But, that is what I am recommending.

SUPERVISOR RINGLER: That is what he has recommended.

COUNCILWOMAN GALVIN: That's not what I am hearing you say, Bruce.

MR. SECOR: But, that is what I am recommending. I am saying that there are separate actions but that the way to get started on this is this phase 1 report which I am recommending to the Board so we can determine what should be done, we can come up with an action plan which DEC can look at and so that we can all agree on what should be done out there. And, you know, I...

COUNCILWOMAN GALVIN: But, I think that I am hearing something different from you tonight than from what I have heard from you before in particular at the November 30th meeting and that was that there had to be a delay on going forward and looking at closure. That we should press on with getting the extension and the permit.

MR. SECOR: No, the question you asked me on that Monday night meeting was -- your question to me was you gave the Town Board a time line of getting the permit in for yard waste disposal by the end of January.

COUNCILWOMAN GALVIN: Right.

MR. SECOR: You said to me, can you do both this and some remediation plan and I said no. And, what I'm coming back to you with is, let's go out and get a consultant to start this phase 1 assessment because I don't have the staff or the expertise to do this.

COUNCILWOMAN GALVIN: And to include the remediation.

MR. SECOR: So that we can do this. But, if I try to do everything in house by ourselves, it is going to be end of next year before we get to moving forward and I don't think we should give up that time. So, you know, I am not giving you a different answer. What I am giving you is a different approach to try and come up with the time frame that we are looking at.

COUNCILWOMAN GALVIN: The two would be running on the same time line and in the same time frame.

MR. SECOR: Yes, if... depending upon what comes out of this phase 1 report, we see what is required. Then we can go. I can't tell you right now what the time line is going to be on remediation and closure, whatever until I see what comes in this action plan.

COUNCILWOMAN GALVIN: But they are going to run simultaneously?

MR. SECOR: They could, with whatever the Board is, you know. We have committed to DEC to have the permit request prepared by the end of January which we intend to make. What the time line is going to be for the rest of this will depend on whether borings are required, if ground water monitoring is required, there is a time frame between ground water wells being done, developed, testing, you have to take repeat samples. That all stretches time out quite a bit and I don't know...

COUNCILWOMAN GALVIN: But, it can run at the same time as doing our other obligations.

MR. SECOR: I think... I personally am recommending that they run concurrently, yes.

SUPERVISOR RINGLER: Entertain a motion to authorize Mr. Secor to seek proposals from qualified firms to investigate and perform a phase 1 site assessment of the North Street property.

The motion was made by Mrs. Fuller and seconded by Ms. Galvin to authorize Public Works Commissioner Secor to seek proposals from qualified firms to investigate and perform a Phase 1 site assessment of the North Street property. The motion was passed by the following vote:

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

SUPERVISOR RINGLER: Thank you, Bruce.

COUNCILWOMAN GALVIN: Can I ask Bruce another question while he is on his feet?

SUPERVISOR RINGLER: Sure.

COUNCILWOMAN GALVIN: Bruce, the last meeting you indicated you are going to be looking into getting the gas down at Rupert Road tested.

MR. SECOR: I am still working on that. I called the DEC, I called some consultants, I called the Health Department and I have started to get together information but I don't have the results yet.

SUPERVISOR RINGLER: Entertain a motion to conduct an Executive Session at the end of this meeting to discuss a personnel matter.

The motion was made by Mr. Gunner and seconded by Mrs. Fuller to conduct an Executive Session at the end of this meeting to discuss a personnel matter. The motion was passed by the following vote:

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

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

MR. DUCLOS: I'd like to just continue this just for a few moments. Mrs. Fuller asked me if I agreed with everything Bruce was saying. One thing that just keeps scratching at me is that Bruce seems to think you can separate the new dump from the old dump as far as liability goes.

MR. SECOR: I didn't say that.

MR. DUCLOS: Well, it sounds that way, new dump/old dump. Let me just finish. Whatever the Town leases over there which is 32 acres, according to the current lease, the Town is liable for. So, whatever has to be remediated and closed it has to be the whole thing. You just can't say we are just going to play over here, you have to play with the whole thing.

SUPERVISOR RINGLER: I think what we are saying is we want to find out what we have to do.

COUNCILMAN GUNNER: Yes.

SUPERVISOR RINGLER: That is what we are doing.

COUNCILMAN GUNNER: Why don't we wait and see.

MR. DUCLOS: I just wanted to clear that point up because I didn't hear it coming out.

COUNCILMAN GUNNER: I think your point was exactly... I heard exactly what you said here, all right, but they both will be done together.

COUNCILWOMAN GALVIN: I never heard a response from the Board either as to whether or not they wanted to see Mr. Duclos's tape.

SUPERVISOR RINGLER: I don't care to, I have walked the site.

COUNCILMAN GUNNER: I don't think it is going to change anything.

COUNCILWOMAN FULLER: I don't need to, a dump, is a dump, is a dump.

MR. DUCLOS: It is the way I made the tape. What was the other point I was thinking about.

MRS. CAPONE: Can we see it? I would like to see it.

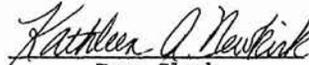
SUPERVISOR RINGLER: Well, stick around and they will show you at the end of the meeting.

MR. DUCLOS: There is one part of the tape that shows clearly a section of old dump being used to cover new dump. And, it is just being wound around, and wound around. Something like this has to be done with it.

SUPERVISOR RINGLER: Anybody else? Entertain a motion to adjourn.

The motion was made by Mr. Webster and seconded by Mrs. Fuller to close the regular Town Board meeting at 9:03 p.m. The motion was passed by the following vote:

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


Town Clerk

THERE WAS NO FORMAL ACTION TAKEN AT THE EXECUTIVE SESSION.

Executive
Session