

TOWN BOARD
JUNE 10, 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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Approve Attendance at Solid Waste Assoc. of N. America Dept. of Public Works

Supervisor Ringler welcomed everyone to the regular Town Board meeting and indicated there was no public hearing. He said this is a business session of the Board but indicated after each item is discussed by the Board, if anyone has any questions, as time permits, the Board will try to answer them. He also noted if there is anything to be brought to the attention of the Board, it will be done at the end of the meeting. He said the first item on the agenda was a request from Mr. Secor, Commissioner of Public Works for approval of attendance at the Solid Waste Association of North America Annual Conference.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that Mr. Secor be and he hereby is approved to attend the Solid Waste Association of North America Annual Conference to be held June 22 through 24, 1992 at Poughkeepsie, New York with registration fee paid and transportation by Town vehicle approved. The motion was passed by the following vote:

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

Refund of Overpayment of Water Rents - May

Supervisor Ringler said the following item is a request from Kenneth P. Hahn, Receiver of Taxes and Assessments for overpayment of water rents for the month of May.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that overpayment of water rents be approved for refunding in the amount of \$20.39 as per the memorandum of Kenneth P. Hahn, Receiver of Taxes and Assessments for the month of May. The motion was passed by the following vote:

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

Accept Deed Van Dyke Road Right-of-Way

Following, according to Supervisor Ringler, was a request from Michael Cirillo, Department of Public Works for acceptance of a deed for right-of-way purposes on VanDyke Road.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that the deed for right-of-way purposes on VanDyke Road be and it hereby is accepted, pending approval of the Town Attorney. The motion was passed by the following vote:

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

Approve Minutes 4/8, 5/13

The motion was made by Mrs. Fuller and seconded by Mr. Gunner to approved the Town Board minutes of April 8, 1992 and May 13, 1992.

The motion was passed by the following vote:

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

Noes: None.

Supervisor Ringler read the letter from Jeffrey Lipnicky, Town Planner regarding adoption of the proposed negative declaration regarding SEQRA for the proposed Terramere, Goldman Planned Residential Development.

Discussion
and Adoption
of Proposed
Neg. Declaration
Terramere
Goldman PRD

The Supervisor noted Ms. Saatman from the Planning Department was in attendance, as well as a representative from the developer. He asked if there were any questions.

Councilwoman Galvin indicated she had some questions. First, she said concerning the issue of the verification of the extended wetlands by the Army Corps of Engineers. She noted in going through the material she had, she did not find a clear statement with regard to the status of that. She asked if a request has been submitted and/or what has happened. Ms. Saatman said as far as they know the request has been submitted but a representative from the Army Corps has not come up and done a field inspection at this time. Councilwoman Galvin said in other words, we do not know where the wetlands are as we sit here. Ms. Saatman noted the applicant has submitted their delineations that their consultant has done but the Army Corps has not verified those. Ms. Galvin said then the Board is being asked to do a negative declaration without knowing exactly what the area of wetlands is, further asking if this was correct. Ms. Saatman said it is possible that it may change from what the applicant has submitted. She said the Planning Board felt confident that if it changed substantially and they felt that if it changed the project that the negative declaration could always be rescinded and that question could always be revisited.

Supervisor Ringler asked if there were any other questions. Councilman Gunner asked the representative of the developer when they say in the description of the action, 22 single family estate homes, that is pretty clear to him although the other one, most people would think would be clear to him, he would like a clarification. He said 43 clustered single family homes is stated and asked if that is 43 individual units attached or are they 43 units with multiple units within them. The representative said they are single family homes, free standing, not attached in any way. Mr. Gunner thanked the representative.

Councilman Gunner said he had one or two others. He said there seems to be some discussion regarding the depth of bedrock. He said there seems to be a disagreement where it states, inconsistent... 3.3 appears inconsistent with information from other sources. He said they then quote the geological hazards, the thickness of overburden of the Albany New York 15 minute quadrangle map, New York Museum and Science Service indicates the site is located in area depth of approximately 200. He said this is considerable difference. He said they go on to say the deepest soil bore done by the applicants geotechnical consultant was 92 feet deep and no identification of bedrock. He asked why there would be such a difference. The representative said he thinks generally they would say that the depth of bedrock is the deeper of the two. He said there is a large area of urban soils fill that has different types of material in it so that there was a soil test done where the hand augur was used and that may have been the... but it is not necessarily an indication that there was bedrock at that depth. He said he would say it is probably just the variability of the particular soil and they are going with the USGS soil... Councilman Gunner asked if that is what they usually go with. The representative said it was SCS and indicated yes.

Councilman Gunner said he knows the community is very concerned about agricultural land and approximately 35 percent of the site is characterized as prime agricultural soil, is not being used for agriculture at all from his observation and everything there and he

just wanted to bring this out so that they were aware. He further commented on the terrace site, where the recreation building will be and the parking lot, right. He said you are looking for site boundary identification for the historical or pre-historic site and that will be part of the next or another report. Gentleman said this was correct and they have another geologist out there right now who is finishing the field work and they expect a report at the end of a month. Councilman Gunner asked if a traffic study will be coming forth too. The gentleman said this was right.

Supervisor Ringler asked if there were any other questions. Councilwoman Galvin said she had one more question. She said going back to the flood plain, there is a proposed recreational building which may encroach into the 100 year flood plain according to the report. She asked how much of the area would the 8.1 acres that is identified, would that encroach into it. The gentleman said they have been pretty careful to keep all of the buildings and the parking, in fact, out of the flood plain, out of the hundred year flood plain. Ms. Saatman said she believed that was the first memo and the plan was revised after that. The gentleman said initially they were in the flood plain but after planning staff pointed that out, they revised the plan. Ms. Saatman said they are showing the flood plain boundary on the plan now and the structures are outside the plain.

Councilwoman Galvin asked if it was in any area, in her opinion, which could be designated as flood plain. Ms. Saatman said none of the areas down at the bottom of the slope near the Normanskill was designated. Ms. Galvin asked if it was factual that the report from the Corp. has not been received back. Ms. Saatman said there has been nothing from the Corp.

Supervisor Ringler asked if there were any other questions. The motion was made by Mr. Webster and seconded by Mrs. Fuller that the Board declare a negative declaration in regard to the Terramere Goldman Bethlehem PRD. Councilwoman Galvin asked a little further discussion, indicating she intended to vote no since the report from the Army Corp. of Engineers has not been received back and there is a question about wetlands. She further noted she thinks this could be significant. She said she does not think there is a lot of information before the Board at this meeting. Councilman Gunner asked Ms. Saatman if there was any reply to that. He asked if there was any reason, he thought he might have missed something that she said or put something more into it than was there. He said when the question was asked, he thought she said that there was some reliable source. Ms. Saatman said the applicant's consultant has done a wetland report and shown their delineations based upon what they feel are the wetlands on the site. She said as far as they know at this time, the Army Corp. has not been to the site and verified those. Councilman Gunner said, then they really should have those before... Ms. Saatman said they feel quite confident and she believed the Planning Board felt pretty confident with their report that was submitted and they felt that if it did change substantially, then the question could always be revisited and if necessary the negative declaration could be rescinded.

Supervisor Ringler asked Mr. Barr, Chairman of the Planning Board if he had any comments. Mr. Martin Barr said that what Ms. Saatman has said... the Planning Board has spent a lot of time discussing just the question of wetlands and what is the appropriate course of action to be taken with a project, whether everything should be held up and no action taken on anything until the Army Corp. of Engineers has approved the delineation. He said the Planning Board, he thinks, has decided to operate on a case-by-case basis and where there is a serious question raised as to what the appropriate delineation that in some circumstances they might hold up, in other circumstances they think they can proceed. In this case, the applicant, the developer provided the Planning Board with a very complete wetlands study, according to Mr. Barr. Councilwoman Galvin asked if she could interrupt him at that point, with one question directly on it. She asked did the Planning Department or the Planning Board direct any further investigation other than what was submitted by the applicant. She asked if there is any independent verification of the accuracy. Mr. Barr said he does know

that members of the Planning Department did walk the site, Ms. Saatman can talk to that. He said there was nothing presented by the Planning Department to the Planning Board indicating any disagreement with the wetland delineations submitted by the applicant. He said where they do get a very thorough wetland delineation study by an applicant, there are situations where an applicant does not give particularly good wetland delineation, particularly one that one can reasonably rely on, then they may very well have to say to an applicant, we are not going to proceed until something better comes down the pike. Councilwoman Galvin asked on what basis he decided... the Board decide that this was one that you could rely on. Mr. Barr said on the basis of the wetland delineation that was given... a study that was given to us by the applicant on the basis of what he understood to be... what we think we understood to be the Planning Department's acquiescence that there was no significant disagreement with them over the delineation study... Councilwoman Galvin said this was exactly what she was trying to get at, what did they base that on. She asked if somebody actually conduct a study that verified it, that the applicant... Mr. Barr said no, so far as he knows no one did.

Supervisor Ringler noted but they walked the site. Mr. Barr said except walking the site. He said they have no one. He said the Town has no one on its staff that is qualified to make that kind of a opinion, other than to raise certain questions and ask the applicant to come back with clearer answers and the Planning Board concluded that there was sufficient information for them to make this determination. He said the point was made by Ms. Saatman that they were advised by counsel that if the Army Corps. final result makes any significant difference, then they have the perfect right under the SEQRA law to reopen the question and perhaps even rescind... Supervisor Ringler indicated the resolution calls for that also. Councilwoman Galvin said she understands number 3 in the whereas, specifically requires verification by the Corp. but the problem is at what point that is expected to come back. Councilwoman Galvin asked Mr. Barr when he expects that. Mr. Barr said he would expect that final approval of the building project approval would not be given until they have this question cleared up completely. He said in other words, they now would move onto the step of resigning the problem. Councilwoman Galvin asked Mr. Barr if he knows at what stage or what time frame they expect to have a response from the Corp., based on their past experience. Mr. Barr said no, based on the past experience he has no idea when the Army Corp. of Engineers will respond. Supervisor Ringler noted that whole situation is in a state of flux with the Army Corp. of Engineers. He said they sometimes take a very long time. Mr. Barr said this is part of the problem. Ms. Saatman said it seems to take a long time. Mr. Barr said given that whole state of uncertainty with regard to Army Corp. of Engineers, their choice was either to move along as best they can or to stop all operations. Councilwoman Galvin said let me ask it to you this way... since you have been chairman of the Planning Board, have you ever gotten a response back from the Army Corp. of Engineers. Mr. Barr said yes, there have been a few outfits that have gotten their final approved delineation, yes. Councilwoman Galvin asked if he knew how long it took for them to get that approval. Mr. Barr said that has varied but it has been a long period of time.

The motion was passed by the following vote:

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

Supervisor Ringler said the following item was a request from Bruce Secor, Commissioner of Public Works, for approval of reduction of bonding for the Indian Hills, Section 2 Subdivision. Mr. Ringler noted in the memo to the Board, Mr. Secor indicated Belmonte Builders has completed a substantial amount of the work in Section 2 and Mr. Belmonte has requested a reduction in bonding. Mr. Secor noted the Highway Superintendent agrees with this reduction due to work completed.

Councilwoman Galvin asked Commissioner Secor if he has done the usual lien run on this item. Mr. Secor said no, but he talked to Mr. Belmonte, there is no bond and he is developing this from his own cash reserves. He said he did not check the lien docket but he can do that. He indicated he should have done this prior to the meeting.

Approve
Reduction
in bonding
Indian Hills
Section 2
Conditionally

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the reduction in bonding from \$100,000. to \$25,000. pending a check of the lien docket be approved conditional. The motion was passed by the following vote:

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

Acknowledge
Receipt of
Final Plat
Approval
McAndrews
Subdiv.

Supervisor Ringler noted next was the acknowledgement of receipt of Certificate of Approval of Final Plat for the McAndrews 3 lot subdivision from the Planning Board for information purposes.

The Supervisor said the next item was a request from David Austin, Department of Parks & Recreation for approval of appointment of seasonal personnel per the list attached.

Approve
Seasonal
Personnel
Parks & Rec.
Dept.

The motion was made by Mrs. Fuller and seconded by Mr. Webster that the personnel indicated on the memorandum from David Austin, Administrator of the Parks & Recreation Department dated June 10, 1992 be and they here by 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.

Approve
Wayne
LaChappelle's
Attendance
K-9 Seminar

Supervisor Ringler noted the next item was a request from Chief LaChappelle, Bethlehem Police Department, for approval of attendance of Officer LaChappelle and K-9 Grando to attend a seminar of 1992 National Police K-9s.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that Officer Wayne LaChappelle and K-9 Grando be and they hereby are approved to attend the 1992 National Police K-9 Seminar to be held June 20-26, 1992 at Fort Wayne, Indiana with registration fee paid and transportation provided by police vehicle. The motion was passed by the following vote:

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

Approve
Attendance
of Det. Cox
Det. Mastriano
Motorcycle
Gangs Conf.

The following item, according to Supervisor Ringler, was a request from Richard J. LaChappelle, Chief of Police, for approval of Detectives Cox and Mastriano to attend an information sharing conference on motorcycle gangs regional activity to be held June 23, 1992.

The motion was made by Mr. Webster and seconded by Ms. Galvin that Detectives Cox and Mastriano be and they hereby are approved to attend an information sharing conference on Motorcycle Gangs Regional Activity to be held June 23, 1992 at Schenectady, NY with registration fee paid and 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 noted the following item was a request from Chief of Police, Richard J. LaChappelle, to authorize the Bethlehem Police Department to enter into an agreement with the City of Albany regarding animal control. The Supervisor said the Chief had been approached by the City Clerk of Albany, asking if Bethlehem would be willing to have a reciprocal agreement in emergency situations of having them cover us and vice versa. He said they do not always have full time animal control as the Town of Bethlehem does not. The Supervisor said the Chief wishes permission to do this and asked the Chief if the Town has to have some kind of written situation with them or will this be just between he and the City. Attorney Kaplowitz said there should be some kind of written agreement. He said you can have an inter-municipal agreement but it could be very simply.

Councilman Gunner said he certainly likes the idea of cooperating with another community and have them cooperate with us. He said seeing that they are a much larger population and city of some consequence, he asked if there will be a high amount of incurred overtime and who pays it. Supervisor Ringler noted this would hopefully eliminate some overtime because what will be able to be done -- instead of in situations now where we have to call somebody in because we do not have an animal control officer on, the idea is Albany would cover for us and vice versa. He said if our person is on and the City does not have anybody on, we will cover. Councilman Gunner said he thought the Supervisor missed the point, but he may be completely wrong and that is why he missed it -- he said since it is the largest city, it probably has more dogs -- he does not know this for sure -- certainly has more people possibilities, he would assume that they only have one dog but... Supervisor Ringler asked if he meant one dog officer... Mr. Gunner said he is not talking dogs in the city but do they have more than one dog... Supervisor Ringler said this is the Animal Control Officer, not the K-9 officer. Councilman Gunner said he meant does the city contain them themselves or do they send them to a county facility or what. Supervisor Ringler said they probably go to the same place we do, the Hudson-Mohawk Humane Society. Councilman Gunner asked if he thought it would be an even situation. Supervisor Ringler said the Chief is very pleased about this because it is going to offer both some advantages.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to approve the signing of an agreement with the City of Albany prepared by the Town Attorney and indicating a full indemnification provision. Supervisor Ringler asked Mr. Kaplowitz if he would put all that in there. Attorney Kaplowitz noted they may not sign it. The motion was passed by the following vote:

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

Attorney Kaplowitz asked if the Town Board is willing to indemnify them because they are not going to do it for us if we do not do it in return. Supervisor Ringler said we will have to.

Approve
Signing
Agreement with
Albany Re:
Animal Control

Following was a request from Highway Superintendent, Gregg Sagendorph, for permission to go to bid for one new leaf vacuum for use by the Highway Department, according to Supervisor Ringler.

The motion was made by Mr. Gunner and seconded by Ms. Galvin that the Town Clerk advertise for bis in THE SPOTLIGHT issue of Juen 17, 1992 for one new leaf vacuum for use by the Highway Department and that bids be received for the leaf vacuum on Juen 30, 1992 at 2:00 p.m. The bids will be opened and read at the Town Hall on this date. The motion was passed by the following vote:

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

Approve Go
To Bid For
New Leaf
Vacuum -
Highway Dept.

Acknowledge
Receipt of
Final Plat -
Adams Woods

The Supervisor next acknowledged receipt of Certificate of Approval of Final Plat for the Adams Woods Subdivision from the Planning Board for informational purposes.

Acknowledge
Receipt of
Preliminary
Plat For
Carriage Hill
Section 1 Subdiv.

Supervisor Ringler next acknowledged receipt of Preliminary Plat for Carriage Hill, Section No. 1 Subdivision from the Planning Board for informational purposes.

Acknowledge
Receipt of
Cond. Approval
Final Plat -
Colonial Woodlands
Subd.

The Supervisor next acknowledged receipt of Certificate of Conditional Approval of Final Plat for the Colonial Woodlands, Section 1 Subdivision from the Planning Board for informational purposes.

Acknowledge
Receipt of
Final Plat
Trued/Bane Sub.

Supervisor Ringler next acknowledged receipt of Certificate of Approval of Final Plat for the Trued/Bane Subdivision, Feura Bush Road, from the Planning Board for informational purposes.

Following, Supervisor Ringler said was a recommendation from Mr. Secor, Commissioner of Public Works for release of bonding for the Brookfield Subdivision. Supervisor Ringler noted Mr. Secor indicated Mr. Tessitor from Biates Corporation has requested the release of the irrevocable letter of credit.

Approve
Release of
Bonding
Brookfield
Subd.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the recommendation of the release of bonding for Brookfield Subdivision be and it hereby is approved and directed the Town Clerk to return the letter of credit to Bankers Trust Company (now known as First American Bank). The motion was passed by the following vote:

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

Authorize
Supervisor
To Sign
Agreement with
NYS Thruway
Authority -
Proposed Water
Supply

Supervisor Ringler indicated the following item was a recommendation from Mr. Secor, Commissioner of Public Works, for authorization of the Supervisor to sign an agreement with the NYS Thruway Authority in conjunction with the proposed water supply project.

WHEREAS, the Town of Bethlehem is constructing new water transmission facilities for Water District No. 1 and has provided for increased water service within the existing Bethlehem Water District No. 1 and

WHEREAS, the water supply plan developed in connection with said improvements, requires that certain portions of the system will be located on properties owned or under the control of the New York State Thruway Authority, and

WHEREAS, in order to enter upon and locate any portion of said system on the lands of the New York State Thruway Authority, it is necessary to apply for and obtain an occupancy permit from said authority.

NOW, THEREFORE, BE IT RESOLVED, that the supervisor is hereby authorized and empowered to represent the Town of Bethlehem in the negotiation of a permit to enter upon and locate water transmission facilities on the property of the New York State Thruway Authority as required by the water supply plan and he is further authorized and empowered to make application for said permit, execute any necessary bond, documents, other assurances which may be required by said authority.

BE IT FURTHER RESOLVED, that the Town of Bethlehem will maintain said occupancies in accordance with the Authority's Rules and

Regulations and will hold harmless the Authority in accordance with the undertaking dated 12/09/81.

The foregoing resolution was presented for adoption by Mr. Gunner, was seconded by Mrs. Fuller and was duly adopted by the following vote:

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

Supervisor Ringler said following item was a request from Mr. Secor, Commissioner of Public Works, pertaining to the reconstruction of a portion of Orchard Street in Slingerlands. The Supervisor noted this is part of the ongoing program for reconstruction of old Town highways. He further noted a portion of Orchard Street will be reconstructed this year during the planning review for the Delmar Village project and the Cedar Ridge project. He said there is a proposition realignment at the intersection of Orchard Street and Fisher Boulevard. The Cedar Ridge developer has agreed to deed the right-of-way to the Town for the reconstruction work he added.

Discussion
Reconstruct.
Orchard St.

Commissioner Secor said he would start and Mr. Cirillo will fill in the details. He said what this is is a larger scale drawing, actual subdivision drawings from the Cedar Ridge Subdivision. He indicated the location of Orchard Street and Fisher Boulevard and pointed out the location of the Delmar Village Subdivision. He noted single family homes are proposed for some of the area and apartment clusters located closer to Delaware Avenue. He said the first section of Cedar Ridge is 25 lots and there is a cul-de-sac and the street begins to go into the property. He said Cedar Ridge has about 2300 feet of road frontage along Fisher Boulevard and in their presentation to the Planning Board they had proposed to reconstruct Fisher Boulevard. During the discussion of Delmar Village, Mr. Secor noted, Delmar Village was going to construct a continuation of Fisher Boulevard down through to its interconnection with Delaware Avenue. He said they have allowed for a 70 foot right-of-way on Fisher Boulevard all the way down through with a bicycle path on one side and a jogging path on the other. He said there are landscaping and berming requirements that was submitted as part of the draft environmental impact statement which was reviewed by the Planning Board for Cedar Ridge. He said there were other considerations given during the Delmar Village work and some buffering and proposed or settled on as part of the final environmental impact statement.

Mr. Secor said in redesigning or reconfiguring the road, site distance was looked at around the curve. He said there is a concrete box culvert bridge at the bottom which is going to have to be extended. He indicated the location of the Cedar Ridge project and noted where it goes across to the area where the deeds are presented. He said they are the deeds for the strip of land along the Cedar Ridge development on Orchard Street on through their property. He said there is about 7/10s of an acre and about 1.2 acres on the other side that they are deeding to the Town. He said we already have deeds from Delmar Village on the strip and they will be getting some deeds on the other side of Elm. Basically, he said shaded in pencil is the existing roadway, there is a 16 inch water main that exists come through this area, the road is being relocated to get better sight distance and to line up the roads that are going down, with the continuation of Fisher Boulevard. He said also, in yellow, shows the new construction. He indicated the road has been moved over some 60 feet. He said again, to improve sight distance around the curve and make a better intersection. He noted basically, this is what the program is. He said they are allowing for a jogging path coming down through here because of the steep hillside on the one side and a ravine on the other side, the little box culvert and another hillside and steep slope on the other side, they are not going to be able to do the same type of cross section as shown on Fisher Boulevard which is basically dealing with much flatter property. He said there is not going to be a separated right-of-way for a separated bicycle path or sidewalk. Mr. Secor said this will just be 22 feet of pavement here with a widening on one side for a

jogging path. He said there just is not room because it would take a massive amount of earth work down in the area and he thinks it would be destructive to the neighborhood to try to get into that. He said they are just putting a regular town street through here with a street widening to allow for the jogging path. Mr. Secor asked Mr. Cirillo if there was anything else. Mr. Cirillo said no, that is just about what he had to present.

Supervisor Ringler asked if there were any questions. Mrs. Roberta Ponemon said she was curious about the changes and asked if it was just going to be essentially just there by Fisher Boulevard. Mr. Cirillo said this is going to be the major change, the realignment of Fisher Boulevard and Orchard Street. He said this is about a 60 foot differential from the existing pavement to the new pavement. He said as you are moving easterly toward Brockley Drive, it will start to tie into the existing pavement that is here. He said there is just a little change in alignment, they proposed moving the road a little further to the south to get out of the ravine area. He said there will be some clearing in the ravine area necessary, to do some piping and as Mr. Secor said, there will be an extension of the culvert. Initially, he said they are talking about reconstruction approximately 1100 feet in this project this year if they get the necessary approvals. He said there is another 1100 feet easterly that will be done in another phase. He said there is some storm drainage at the intersection that will have to be installed and as mentioned, some piping on the slope but the material that is excavated will be used for fill areas.

Mrs. Ponemon asked if the changes basically are limited to around Fisher Boulevard. Mr. Cirillo said the major changes, yes. Mrs. Ponemon asked if those curves up to that culvert are essentially going to remain unchanged. Mr. Cirillo said the curved area will be flatter, flatter curves so that the existing northerly edge of pavement will be closely related to the center line of the new pavement. He said there will be a displacement of about maybe 10 feet down in the one area. He said the ravine in this area is shallow, maybe 5 to 6 or 10 feet deep. Mrs. Ponemon asked if this was 22 feet wide. Mr. Cirillo said 22 to 24 feet is what is being talked about. Mrs. Ponemon asked if this will be straightened a little bit. Mr. Cirillo said they are going to flatten the curve because you cannot straighten it but it will flatten it and get a longer radius on it. Mrs. Ponemon asked why this was. Mr. Cirillo said that will provide better sight distance for going around the curve. She asked if they are all aware that there is a tremendous speeding problem on Orchard Street right now. Mr. Cirillo said no. Mrs. Ponemon indicated this was with the curves as they exist. Mr. Cirillo said the speed limit in the town is 30 miles per hour unless otherwise posted. He said any time they do make improvements to highways, that is a concern and they do... A gentleman said the 30 miles per hour speed limit is not being observed right now. Mr. Cirillo said they asked the residents to notify the Police Department. The gentleman further said he talked to the Supervisor already and he said he would have the Police come over and he has not seen anything of them over there yet. Mr. Cirillo asked if they were positioning themselves to be able to observe this. Mrs. Ponemon said they are welcome to park in their driveways. The gentleman agreed. Mr. Cirillo said it is a concern anytime an improvement is made to a highway.

Mrs. Ellie Prakken indicated it was stated that the road is going to be 22 feet wide, and asked how does this relate to the width of the road as it is now. Mr. Cirillo said it is varying between 18 and 20 feet right now. Mrs. Prakken asked how far the culvert will be extended. Mr. Cirillo said he would estimate about 20 feet, that is being looked into, they want to evaluate the culvert to the norm if they have to upgrade the culvert. He said they want to evaluate that and as indicated, they probably will not get down there until late next year. Mrs. Prakken asked what next year meant. Mr. Cirillo said approximately a year from now.

Mrs. Prakken also asked about the elevation of the road. Mr. Cirillo said the existing highway... the slopes as they know are relatively steep coming down, it is about an 8 percent slope. He said they are proposing a vertical curve, a sag vertical curve is what they call it and they are proposing to raise the center line

approximately 2 foot. He said now, pushing the road in this area approximately 10 feet to the north so it will give a little more distance to ramp a driveway from that. He said the center line is 4 inches above the edge of pavement, so from the edge of pavement it will only be 20 inches drop. He said that would have to be transitioned over maybe 15 or 20 feet to ramp it down for a driveway area. He said this has not been finalized and they are still working on that, whether it is going to be 2 feet or 18 inches. Mrs. Prakken asked what happens from the culvert on up towards Brockley. Mr. Cirillo said there is probably going to be an area about 200 feet that will be filled to 2 feet and be tapered to the existing pavement. He said you really cannot change the grades much at that part of the road there... to make a true grade, a uniform grade but as far as any substantial cut for fill other than at the low point. Mrs. Prakken asked about the widening or straightening from the culvert towards Brockley. Mr. Cirillo said they have a proposal... he exhibited a map of the Devonshire Subdivision and indicated the location of the culvert Mrs. Prakken mentioned. He said they did acquire some land from Mr. Klersy when he built Mr. Biggerstaff's home on top of the hill for widening because of the steep slope in that area. He said we are requesting from Devonshire Hill developer an additional widening in one area of the road but the difficulty they would have coming through this particular area, is that they do not want to get into the steep slope and on the other side there is a drop off. He said it is kind of tight to get an alignment through there. He said there is going to be an area where they will have to push this out some and they are going to have to fill in order to put a 22 foot pavement in there. He said they are trying to tightening this up with the computations and make it as tight as they can in there to prevent the least amount of fill needed on the side and like he said, the least amount of excavation on the other side.

Mrs. Prakken asked when this part of the project fit into the scheme, time wise. Mr. Cirillo said this would be, as he understands it, phase 2 and that might occur a year from now. He said at the time he mentioned they were going to extend the culvert, at that time. Mrs. Prakken further inquired that this is part of that timing. Mr. Cirillo indicated this was correct.

Mr. John Smolinsky asked Supervisor Ringler if Mr. Cirillo or Mr. Secor could talk about the whole picture here. He said they have seen the Cedar Ridge piece and then this Town sponsored piece from the culvert on up but there are a lot of people in attendance interested in the other end of Orchard from Cedar Ridge out on to Game Farm Road and the piece of Fisher and also in this whole picture also is the water line extension. He wondered if there could be a summary given to indicate where all that stands. Mr. Secor said the Orchard Estate subdivision which is around by Mr. Cates and going out towards Five Rivers is still before the Planning Board. He further noted he is not aware if they have issued the approvals at this time. He said they have done subdivision review and rendered an opinion to the Planning Board as far as cuts and fills and straightening out some sight distance problems for individual driveway accesses for that subdivision layout but they do not have a current plan as far as going in and reconstructing in the near future. He said that is beyond their area of interest at this time. Mr. Secor said if the subdivision goes forward, they have to either mitigate their driveway entrance sight distance problems by moving the driveway or by removing some of the knobs in the road to improve sight distance. He indicated he did not know if Ms. Saatman knew anything about the subdivision as to a decision with what they are going to do there. Ms. Saatman said she does not. Mr. Secor said they kind of threw the ball back into their court and said you know, you submitted a subdivision plan, we went out and checked sight distances on there and he did not like it. Mr. Cirillo said there was a memorandum submitted to the Planning Department concerning that and as mentioned, there were some driveways that had to move in order to get the necessary sight distance. He said they did come up with a tentative profile which in some areas there were cuts of 4 to 6 feet, in other areas -- near Mr. Tate's house, west of it -- there is a drop off and a culvert in there. He said that would need substantial fill, maybe a substantial 5 to 6 feet of fill in there. He said this has not been finalized. Mr. Cirillo said one of the things about, in front of your house, you have some nice mature trees and note has

been taken of that. He said you really would not want to cut down the road much in front of the house because there are two existing driveways that come out at that point. He said the only way they can increase the sight distance would be to raise the low point up rather than substantially lower the road at that location. Mr. Tate said they did lower the road a couple years ago. He said their only concern is to try and maintain the topography, the beauty of that area and not to make it an increasingly inviting for a cut through which is really being used today.

Mr. Secor said what Mr. Cirillo is designing to is standards for low speed, local deal and they had a conversation and something is going to be referred to the Traffic Safety Committee is this intersection here and where the stop signs should be placed in this intersection. He said it would be his recommendation that the stop sign should be on Orchard Street and that Fisher Boulevard... problem is that initially this is going to look different. He said it makes no sense at this time to put the stop signs there and have Fisher be the through street when it has no place to go. He said it may have to be a phasing in of that. He said he thinks Orchard Street should be the stop and Fisher be the through after this extended down to Delaware Avenue but the water main exists from Fisher Boulevard/Orchard Street out to Dr. Maxon's property line and a little bit beyond that. He said the water main beyond that westerly towards Five Rivers would be up to the Orchard Estates subdivision to bring that around to the extent of their frontage. Mr. Secor said as he has said, that will depend on the timing of that subdivision. He said the water line between where it starts now or stops now at Biggerstaff's place that was just built and going through and connecting into Fisher Boulevard should come in to existence within the next year with the development of Delmar Village and Cedar Ridge. He said there will have to be water district extensions issued for both of those and there will be a hearing. He said he probably will have that ready the end of this month or early next month to come to the Town Board for a hearing on Delmar Village. He said they have been waiting for them to get some deed restriction information back. He said he just checked back with Mr. Lipnicky and that is in, they have the revised plan and he thinks they have all the things that are follow-up. He said that paper work has lagged because the economy has been slow. He said that piece of water line will come, it will not be built under the pavement, it will be built off the shoulder obviously. He said that is something that should be looked at following up. Mrs. Prakken asked if they will be built at the same time. Mr. Secor said he does not think the timing will allow for it, this will end up being done and then that will come up in the shoulder at some later date.

Mr. Tate asked if it was Mr. Secor's plan to maintain traffic while this is going on. Mr. Secor asked Mr. Sagendorph and he indicated they do. Mr. Tate said there will be through traffic then. Mr. Sagendorph said there will be.

Mr. Bill Matussek said he would like to focus on the culvert again. He said he thought Mr. Cirillo said you were looking at the culvert for what. Mr. Secor said there will be a structural analysis done, since it is smaller than a span of a bridge, it is not rated by the State of New York in their off highway section. He said any bridges whether they are on State, County or Town roads have a plaquered on them and they are rated by the State of New York to go through the annual bridge inspection program. He said this is less than the minimum span for a bridge so it is not considered a bridge, it is considered a culvert. He said they are going to hire a structural engineering firm to come in probably even have a core sample taken on the concrete. He said he has no idea of how old the concrete is, how much the salt content is, so they will probably have some analysis done. He said they have expand it and they will have to make a decision as to whether they are going to simply take it out and put in some pipes or do something different with it. He said that is a decision that has to be made.

Mr. Matussek asked if it was to expand it for water flow capacity. Mr. Secor said no, again, they are doing the hydraulic calculations now, they have done some computer analysis on that and he does not know, unless you know something I don't know... Mr.

Cirillo said Mr. Fenzel, Sr. Engineer, has not finished the computations on that. Mr. Secor said that is still going on also. He said to his knowledge, there is not a necessity to expand that. He said anything that they will do, they will look at that and see when overtopping would occur, if it would occur within a 100 year flood or a 50 year flood. He said they will do that through this computer analysis. Mr. Matusek said the reason he brings this up is, you know, he has spoke before the Town Board before asking you to look at the storm water detention management of the Cedar Ridge and Devonshire Hills storm water outflows. Mr. Secor said drainage analysis was done for both of those but what you really look at in these things are outlet conditions and inlet conditions. He said the cross-section area capacity of that structure is one thing but getting the water into it and getting it out of there and that is more of a maintenance thing. He said trees grow up and plug the entrance way, you just cannot get the water through it. Mr. Matusek said there is a lot more water going through that culvert now then there was last year. Mrs. Prakken agreed, indicating both of the properties get flooded. Mr. Matusek said we are still not looking at... that is only with Devonshire Hills and you can take a look at that 30 inch pipe that is now feeding the stream. He said Cedar Ridge is not done yet, there pipe is not flowing and he cannot wait for the rest of Fisher Boulevard is dumping into that creek. Mrs. Prakken said that is going to be a big problem. Mr. Matusek said storm water management has not been a program in the Town up to now. Mr. Secor said that is not true, there were detailed water analysis done for both Delmar Village and this and this was part of the DEIS and FEIS and in the findings. Mr. Matusek asked if they showed a significant increases in the stream flow and nothing was done. Mr. Secor said it was within the capacity of the stream channels and that was the final determination. Mr. Matusek said it depends on whether you want to consider property that is now used for recreation and private property as far as the stream channels. Mr. Secor said you cannot look at a 3 foot wide dry channel flow and say that is the stream channel. He said the stream channel includes the flood plain and there is a large flood plain down there. Mr. Matusek asked if there was a flood plain. Mr. Secor said there is no 100 year flood plain analysis done on this because it is not within the flood control map that is on file which included the Normanskill, Vlomankill and the Hudson River. He said he did not think most of these minor tributaries were done in that program.

Mr. Matusek said it would stand to reason that trees that have been there for 100 years have not been eroded by the stream and suddenly these 100 year old trees start to fall into the stream, there is a reason for it. Mr. Secor said there is an ongoing geological erosion, these things have a lot of ox-bows in them, they change all the time, the stream channels, the stream directions change. He said a major flood can rechannel a stream and that happens all over in these clay streams. He said this is not a phenomena that has never been seen before in the history of the world, that happens all the time. Mr. Matusek said he was sure it does. But, at the same time, Mr. Matusek said there are laws that prevent dumping more water into a stream than nature allows. He said he means.... Mr. Secor said he does not know what Mr. Matusek was referring to but again, the draft EIS was done, a final EIS was written, and all this stuff has been gone over.

Mr. John Smolinsky asked one of the things, to clarify or add on what Mr. Matusek is saying is that there were analyses, there is no doubt about that. He said all the analysis looked at the size of the culvert and could it do the job, could it not do the job. He said they tried to press the developers and the Town to also take a look at what effect this added storm water has on private property, other properties around. He said he does not think that will be found in the analyses, he is sure they will not. Mr. Secor said that entire area was reserved in the Brookfield subdivision as a natural area and as a flood plain area. He said it is clearly shown in the original subdivision drawings. He said later on it came back and was sold at tax sale and now we have people wanting to go in and develop there. He said if they look back at the original presentations of the Brookfield subdivision that was supposed to be a forever wild area. Mr. Smolinsky said there is other property that they own that is not part of it. Mr. Matusek said he does not think his was. Mr. Secor

said his property was part of that piece he believes. Mr. Matusek said no way. He said there is no reason they should be getting more and more flooding. He said you can take a look at the streams that used to exist and now they are eroding wider and wider, it is obvious what is going on. He said further having worked for an architectural firm that has done the exact same thing, we have been sued and lost in law suits because we have dumped water into streams. Mr. Secor said you did not do a draft environmental impact statement then. Mr. Matusek said they increased the flow of the stream and they did not bring it to the Planning Board's attention, we did not bring to the down stream landowners attention and caused damage. He said the same thing has happened here. Mr. Secor said he disagrees with that completely indicating a down stream analysis was done on this and it was thoroughly aired. Mr. Matusek said it did prove that the streams will double in capacity by the time both developments are done. He said when you double the flow of the stream, you get twice the erosion, twice the damage and who... Mr. Secor said, again, that was not the findings of the report nor their findings in the review of the report.

Mrs. Prakken said since Devonshire has started, they have lost probably 8 to 10 inches of their lawn which has not happened in the previous 10 years that they have been there. Mr. Secor said remember that you are dealing with a box culvert that is 10 or 12 feet wide and the stream channel you are talking about that is 5 or 6 feet wide. He said over the years of draught, the dry years, the encroachment of the vegetation in there you are actually narrowing the stream down. He said this is a very natural thing, when the higher water comes, when you have a natural storm to run off, it either pushes that material out of the way or it has to find a way around it. Mr. Secor said this is just a natural choking of the stream. He said you do not have to walk up stream from this channel to see fallen trees and everything else. He said once a tree falls down, whether it be a 6 inch or 8 inch tree, you start to get piping around that and you change the direction of the stream. He said there is some of this that is just channel maintenance.

Supervisor Ringler asked if there were any other questions from the Board. There were none.

Accept Deed
Re:
Reconstruction
of Orchard St.
From Cedar
Ridge Assoc.

The motion was made by Ms. Galvin and seconded by Mr. Gunner that the deed pertaining to the reconstruction of Orchard Street from Cedar Ridge Associates be and it hereby is accepted. The motion was passed by the following vote:

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

Authorize
Comptroller
To make changes
in Investment
Policy

Supervisor Ringler said the next item was a request from Judith Kehoe, Comptroller, for approval of revisions to the investment policy. Mr. Ringler noted she has recommended a couple changes as follows:

1. Eliminating the option to invest in Revenue Anticipation Notes or Tax Anticipation Notes of other local governments. Special approval is required from the State Comptroller to make these types of investments. The extra red tape is not justified in light of the returns available on these investments.
2. Added a provision that funds held by other Town officials be transferred to the Comptroller's interest-bearing accounts at least twice a month if the account balances are routinely in excess of \$5,000.
3. Key Trust had been designated as the sole collateral agent. In actuality, we had been using other collateral agents. The revision provides authority to do this.

Supervisor Ringler asked if there were any questions. Councilwoman Galvin said she has been discussing this matter with

Mrs. Kehoe and they were particularly discussing the issue of the use of repos, which is authorized and it could be allowed and perfectly acceptable. She said, however, since this is an investment policy that covers not only operating funds but also applies to bond funds, she has a problem with use of repos for anything. She further noted they have discussed the matter and she does not know if Mrs. Kehoe has any comments at this time. Mrs. Kehoe said it has not been the practice of the Town to invest in repos. She said this was a guideline that was put forth by the State. She said she does not have a problem with limiting the Town policy to prohibit the use of repos. Councilwoman Galvin said she personally would feel much more comfortable eliminating repos. Supervisor Ringler said this was okay. Councilwoman Fuller indicated she agreed with Ms. Galvin. Councilman Webster asked if this means eliminate number 5. Councilwoman Galvin said 5 and the references throughout with regard to repos.

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that the Comptroller be and she hereby is authorized to make the changes in the investment policy with the elimination of all reference to repos. The motion was passed by the following vote:

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

Supervisor Ringler said the next item was a request to authorize the 3 percent salary increase for eligible employees effective July 1, 1992. He said as everyone knows, the employees were not given any raises this year due to the financial situation when preparing the budget last year, however, there was a provision in the budget for 3 percent for the eligible employees.

Approve
3 percent
salary
increase
Effective
July 1, 1992

The motion was made by Ms. Galvin and seconded by Mrs. Fuller that the 3 percent increase in salary as included in the budget be and it hereby is authorized effective July 1, 1992. The motion was passed by the following vote:

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

Following, according to the Supervisor, is a recommendation made to authorize Attorney DeAngelis to represent the Town in a potential litigation regarding an employee matter and authorize Roger Fritts to represent Councilman Gunner and Councilwoman Fuller, individually, in the Gladstone litigation, each to be compensated at a rate of \$100. per hour and \$150. per hour for court time.

Authorize
Attorney
DeAngelis
To represent
Town and
Attorney
Fritts to
Represent
Mr. Gunner
and Mrs.
Fuller indiv.
Gladstone
Litigation

The motion was made by Ms. Galvin and seconded by Mr. Webster that Attorney DeAngelis be and he hereby is authorized to represent the Town in a potential litigation regarding an employee matter and Roger Fritts be and he hereby is authorized to represent Councilman Gunner and Councilwoman Fuller, individually, in the Gladstone litigation, each to be compensated at a rate of \$100. per hour and \$150. per hour for court time. The motion was passed by the following vote:

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

Supervisor Ringler asked if there were any other matters the Board would like to discuss. Councilwoman Galvin had a question in regard to whether or not he had received a response back from the Comptroller's office on the question regarding the upcoming special election. Supervisor Ringler said no but just to bring everyone up-to-date, in reaction to the report of opinion of the Secretary of

Discussion
Re: Special
Election

State regarding the Green Island referendum, he asked the Town Attorney to contact the Comptroller's office for an opinion regarding the Town of Bethlehem scheduled election. He further noted to date, no opinion has been received and at the time it was requested, it was questioned as to whether or not they would give us one in time for that. He said it continues, after discussion, to be the opinion of the Assistant Town Attorney Smith that the proposition in place before our voters is authorized by Town Law Section 81 and in addition, Mr. Kaplowitz, Town Attorney, is of the opinion that we should proceed with the election. Councilwoman Galvin thanked the Supervisor.

Supervisor Ringler asked if there were any other comments. There were none. He then asked if there was anything else that anyone else wished to bring to the attention of the Board from the floor. Mrs. Liz McCoy said she had a question about the mailing that is going out to residents of the Town concerning the special election. She said as a member of the Task Force, she met with Mr. Secor about 3 weeks ago and at that time she made a request for additional sentences to be added, short ones, prepared by the attorney, to clarify certain issues that she felt needed to be clarified having to do with the binding nature of the vote and the fact that as the Supervisor just pointed out, our situation appeared to be different from Green Island -- that this was not an advisory vote, this was not a conditional vote and that it would be binding. She said it was her impression that that language would be prepared and reviewed by the few people on the Task Force that came to look at the proposed mailing and she was advised last week that there was not sufficient room in the mailing to include this. So, she said she is here tonight to make a request because she believes the material is probably already prepared and may even be mailed at this point, that because she is in a special position -- having sat on the Task Force and also having talked through Bethlehem Work on Waste with hundreds of people in the community -- she thinks she has some sense of where some of the issues are that are confusing the electorate to make one plea tonight, since it is her only opportunity, that the Town take an additional step to clarify these issues before the voters. She said specifically that it is a binding vote, that it is not advisory, conditional and she has some language that she has prepared -- that she is not going to take the time to read right now -- she said she feels actually strongly enough about this, she has also brought her check book and she has a check made out to the Town of Bethlehem if it is legal to contribute the \$500. for the cost of a mailing or an ad or something similar so that this information can be put before the public and eliminate what we see repeatedly as confusion. She said she thinks the fact that this is not a specific proposal that is being voted on and yet most of the report that is going to the Town and is the only mailing going to the Town fails to identify anywhere that this is, in fact, not a vote on a specific proposal. She said her information that she is talking about tonight is obviously drawn from the minutes of the Board meeting of April 8, 1992. She said all of the presentations which Mr. Secor has made to the community that she has attended and last week's public forum, where she said she believed Mr. Secor agreed with their statement, Bethlehem Work on Waste, that this was not advisory, not conditional and it was binding on the Town. She said she does not know where we go with this at this point, she is prepared to hand the check if the Board tells her this is legal and it can be done. She said there is a big difference and if the response is that we can always do -- Bethlehem Work on Waste can do something, she as a citizen can do something -- it does not carry exactly the same weight as it does coming from the Town Board.

Supervisor Ringler asked Mr. Secor if he had any thoughts on this wording, noting he had discussions on it, indicating he has forgotten what was included in the flier. Mr. Secor said he and Mrs. McCoy did speak. He said it was important to the Task Force and to him that they get out the report of the Task Force. He said his highest priority was to get that reprinted and this was done. He said they have gone through a series of drafts, which have been delivered to the houses. He said the report going out was a report form the Task Force on what the Task Force did, how they did it and what their report was to the Town Board. He said this discussion was held back and forth but he thought it was inappropriate to get into a

legal argument in the report from the Task Force. He said it really was not part of that decision. He said his own opinion is that the Spotlight has covered it very thoroughly and he tried to be very straight forward in both his presentations around the Town and as was said, at the forum the other night, that this is intended to be a vote. He said no, you do not want waste-to-energy facility or yes, you do. He said he does not see a great amount of confusion. He said the electorate is used to seeing propositions on the ballot when you go in the regular November election, they have been propositions in there and when you actually get into the booth, it is a simply yes or no vote. Mr. Secor said he thinks that is the situation right here. He said there are always discussions or arguments that can be made and to try to list all those to try and put it inside the voting booth or put it in some mailing for the Town, no matter what is put in it could be ruled insufficient by someone who had a further argument. He said he does not see how you get around that. He said he thinks it is very straight forward and he appreciates Mrs. McCoy's position but he just disagrees. Attorney Smith said there is a difference of opinion as to his decision and Mrs. McCoy's definition of binding. He said this is a fact of life, it is a difference of opinion. He said it does not mean that what the Task Force has issued is at all misleading. He said he thinks you can clarify very specifically in the Spotlight because he addressed very specifically Mrs. McCoy's opinion. He said they disagree.

Councilwoman Galvin said she had one basic question for Mr. Smith. She asked if it is his opinion that this is in any way asking for an advisory opinion vote from the people. Attorney Smith said not as he has attempted to draft it. She asked if it was his opinion that it was binding. Mr. Smith said yes. He said in response to Mrs. McCoy's position, she has taken the position publicly -- and he said if he is wrong, he is sure Mrs. McCoy will correct him, because you do it very well -- that this somehow binds us to a particular proposal. As he has stated, he said even with a yes vote, the Town would still have to consider the merits, the financial impact, the environmental impact and the regulatory impact of any proposal -- EAC's or otherwise. Councilwoman Galvin said it is also his opinion that within the scope of the Town Law, and the provisions under which the Board is acting, that that is adequately binding to run this election. Mr. Smith said yes, that is his opinion.

Councilman Webster asked if the League of Women Voters flier that was published, was this not pretty descriptive, asking if that satisfied the wording to that. Attorney James Morgan provided a copy of the flier to the Town Board and Councilman Webster asked Mrs. McCoy if she had seen this. Mrs. McCoy said she has seen it. Mr. Webster asked Mrs. McCoy if this was satisfactory. Mrs. McCoy said with respect to this particular issue, she thinks she stated what she thinks it is that she thinks is missing and those are the words. She said she actually did not think when Attorney Smith responded that they disagreed -- actually she does not think they do disagree, she thinks it is a matter of putting the information before the electorate. She said if she understood Attorney Smith right in reading the minutes, he does agree that this is a binding vote and that this is not on a specific proposal. Mr. Smith said this is right. She further said, and this is not on a specific proposal. She never said that this was on a specific proposal. Attorney Smith said he believed the statement she made was that this would require us, in the event that we determine as a Town for whatever reason that the EAC proposal was not appropriate -- he said he believes she will find that we would then be required by this to go search the hinterlands for some incinerator to site somewhere and that is not true in his opinion. Mrs. McCoy said this is a separate issue from what she stated initially, which was to have presented to the Town statements that it was binding, it was not advisory, if not conditional. She said she did not go into the further points that he just made nor does she suggest that they be included here. She said she is limiting it to some very specific issues that she believes have been presented to the Town Board but have never been identified by the Town in any written material provided to it. She said if we were relying on the Spotlight, quite frankly, the Spotlight has already produced in its entirety the report that is now being separately mailed. She said she thought everyone recognizes the infirmities of relying on a newspaper to inform the electorate and

that this was such a critical issue, that it seemed to her that it was an opportunity that there should be an additional statement provided to the Town on those narrow issues. She said she is not going to get into what the permitting standards would be, what the local, State and federal requirements would be that is not at issue here. She said it is just a few straight forward issues that it was binding, that it was part of a particular proposal that would be voted on and that it is not advisory. She said that is essentially as far as she would go because that is exactly what she heard both from Mr. Smith and Mr. Secor.

Supervisor Ringler said he thinks the news media has covered this most adequately. Mr. Smith said he does not know how much more clearer you can make it. Mrs. McCoy said maybe the people they are talking to and she has indicated that they are talking to hundreds of people that do not think what is covered in the media is sufficiently clear. She said she does not think we are going to... the longer the debate... Supervisor Ringler said he would offer Mrs. McCoy -- he does not want her money and he does not know if the Town Board does or not, but he would not accept the check -- Mrs. McCoy said she was not going to make it out to him. He said he would suggest that if she has material there that our Counsel agrees with, he would gladly issue a press release clarifying that and get it out to all the media for this election. He said as long as counsel agrees with what you are suggesting.

Councilwoman Galvin had one further question. She said Mr. Smith has just told the Board that he does not believe it is advisory and that it is binding, and asked if Mr. Kaplowitz concurred. Attorney Kaplowitz said you cannot have a referendum if it is not binding. Assistant Town Attorney Smith said that is the problem with the Green Island piece, that was advisory. He said this was what the attorney from the State said and Village Law does not include Section 81. He said if the Town did not have Section 81, ours would be advisory too. Supervisor Ringler asked Mrs. McCoy if this was acceptable to her. Mrs. McCoy said that sounds fine and she thanked the Supervisor.

Supervisor Ringler asked if there was anything else to be brought to the attention of the Board. There was nothing. The motion was made by Ms. Galvin and seconded by Mr. Webster to adjourn the Town Board meeting at 8:35 p.m. He thanked everyone. The motion was passed by the following vote:

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

Kathleen A. Newkirk
Town Clerk