

The Town of Bethel Town Board meeting of August 26, 2009 was called to order by Supervisor Daniel Sturm at 7:30 p.m. at the Bethel Senior Center.

Council members present: Richard Crumley
Robert Blais
Vicky Simpson
Denise Frangipane

Others Present: Kimberly Shaw Rea, Planning Board Attorney
Robert McEwan, Town Attorney

The meeting was opened with the Pledge of Allegiance.

Presentation: Senior of the Year – Shirley Goodman

The Town Board presented Shirley Goodman with her Bethel Senior of the Year plaque. Ms. Goodman was not able to attend the Retired Senior Volunteer Program awards ceremony and Town Clerk Rita Sheehan presented Mrs. Goodman with her certificates from Assemblywoman Aileen Gunther, Senator John Bonacic, SC Office for the Aging, and the SC Legislature.

Audit of Monthly Bills

Motion by Mrs. Simpson to approve the monthly audit of bills, seconded by Mr. Crumley, put to a vote and carried 5-0.

<u>Fund</u>	<u>Amount</u>	<u>Check Nos.</u>
General	\$167,896.81	#24495 - 24594
Highway	\$269,888.12	# 4286 - 4318
Sewer	\$ 26,340.66	#1430 - 1447
Sewer Ext.	\$ 153.00	#1111
KL Light District	\$ 1,677.04	#608 - 609

Building Department Report for July

Mr. Sturm reported the construction totals are down by 23% for the year.

Total fees collected	July 2009: \$3,945	July 2008: \$8,847
July 2009 Const. Totals:	\$881,750	July 2008 Const. Totals: \$1,142,000

Motion by Mr. Blais to receive and file, seconded by Ms. Frangipane, put to a vote and carried 5-0.

Liquor License Renewal for 17B Quick Stop

Liquor License renewal has been received from Glen Kubista for 17B Quik Stop. Motion by Mr. Blais to receive, file, and approve, seconded by Mr. Crumley, put to a vote and carried 5-0.

#137 - Correspondence from Dr. J.C. Hewitt

Correspondence has received from Dr. Jeffrey C. Hewitt regarding the 1969 Town of Bethel sign on Route 17B. Mr. Hewitt removed the sign and displayed as a souvenir at the Jamesville-Dewitt High School. Mr. Hewitt sent a check for \$200. to compensate for the sign. Motion by Ms. Frangipane to receive and file, seconded by Mr. Blais, put to a vote and carried 5-0.

Motion by Ms. Frangipane to dedicate \$200 to resurfacing one of the historical markers, seconded by Mr. Blais, put to a vote and carried 5-0.

Liquor License Renewal Application - The Lighthouse

Liquor license renewal received for The Lighthouse Restaurant. Motion by Mr. Crumley to receive, file and approve, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Correspondence from SC Division of Solid Waste – Hazardous Waste Day

Correspondence has been received from Sullivan County regarding the September 12th Hazardous Waste Disposal Day. Motion by Ms. Frangipane to receive and file, seconded by Mr. Blais, put to a vote and carried 5-0.

#138 - Correspondence from Susan Runnels, BLDC Manager

Correspondence has been received from Susan Runnels, BLDC Manager, submitting her letter of resignation. Mrs. Runnels and her husband, Paul, are moving to Ashville, NC at the end of October. Motion by Mr. Blais to receive and file, seconded by Ms. Frangipane, put to a vote and carried 5-0.

#139 - Resolution to apply for Justice Court Grant

RESOLUTION AUTHORIZING THE SUBMISSION OF A JUSTICE COURT ASSISTANCE PROGRAM GRANT APPLICATION FOR FUNDING THROUGH THE STATE OF NEW YORK UNIFIED COURT SYSTEM

WHEREAS, the Town of Bethel has received notification from the Justice Court Assistance Program making funds available to Town and Village Justice Courts by the NYS Legislature and,

WHEREAS, Article 21-B allows for municipalities to apply for funding up to the maximum amount available for the purposes of enhancing the justice courts' ability to provide suitable and sufficient services to the community, and

NOW, THEREFORE, BE IT RESOLVED, that the Town of Bethel Town Board

1. Authorizes the submission of such grant application for funding and to provide any additional information as may be required;
2. Requests that both Town Justices must sign the original application for submission to the NYS Office of Court Administration;
3. That one (1) certified copy of this Resolution be prepared and be included with the grant application as required and be sent to:

Justice Court Assistance Program
New York State Office of Court Administration
187 Wolf Road, Suite 103
Albany, NY 12205-1138

Motion by Councilwoman Vicky Simpson, seconded by Councilman Richard Crumley and adopted the 26th day of August 2009.

Correspondence from SC Partnership - Zaccari (Royce Road) Project

Correspondence has been received from the SC Partnership regarding the Zaccari project at Royce Road. The Partnership is asking that the Town assess this project toward recognizing both the importance of the added convenience and the increased fiscal resources it will provide. Motion by Mrs. Simpson to receive, file and send copy of the letter to the Planning Board, seconded by Mr. Blais, put to a vote and carried 5-0.

#140 - Resolution to Introduce Proposed Local Law #3 to Amend Ch. 345 Zoning

Mr. Sturm explained then read the resolution.

**RESOLUTION OF TOWN BOARD OF THE TOWN OF BETHEL
TO INTRODUCE A LOCAL LAW TO AMEND CHAPTER 345 “ZONING”
OF THE TOWN CODE OF THE TOWN OF BETHEL**

WHEREAS, the Town Board of the Town of Bethel (“Town Board”) heretofore adopted a Zoning Code under the authority of the NY Town Law § 261, which Zoning Code appears as Chapter 345 of the Town Code of the Town of Bethel (the “Town Code”); and

WHEREAS, in December 2006 the Town of Bethel adopted a Comprehensive Plan and Local Law No. 5 of 2006, which although Local Law No. 5 of 2006 implemented certain revisions to the Zoning Code, the Town had not adopted appropriate and necessary Zoning Code revisions and amendments to implement fully the aims, intents and plans embodied in the Comprehensive Plan for certain zoning districts in the Town; and

WHEREAS, the Town subsequently conducted a lengthy review to determine all necessary and appropriate amendments and revisions to the Zoning Code for the AG (Agricultural), RS (Residential Settlement), R-17B (Rural Gateway) and the creation of the RD (Rural Development) and the F-C (Forest Conservation) districts; and

WHEREAS, the Town Board then introduced Local Law No. 1 of 2009 to amend the Town’s Zoning Code, and on January 28, 2009 determined that the proposed action was a Type I action under the State Environmental Quality Review Act (“SEQRA”), and established itself as lead agency for SEQRA review purposes; and

WHEREAS, the Town Board, acting as lead agency under SEQRA, completed all of its obligations under SEQRA and adopted a positive findings statement permitting the Town Board to enact Local Law No. 1 of 2009 containing the proposed amendments to the Zoning Code; and

WHEREAS, Local Law No. 1 of 2009, adopting the amendments to the Zoning Code, was enacted on June 24, 2009; and

WHEREAS, the Town Board has continued to evaluate the Zoning Code to assess whether any further amendments to the Zoning Code are necessary to implement fully the aims, intents and plans embodied in the Comprehensive Plan, and to promote and protect the health, safety and welfare of the Town’s residents; and

WHEREAS, it appears that the zoning committee established for the review of zoning goals and recommendations for zoning change misapprehended the boundaries of the Kauneonaga Lake Sewer District (“KLSD”) and the KLSD encompasses more territory that previously understood leading to the potential for high-density commercial development in the NYS Route 17B corridor where such development should be encouraged; and

WHEREAS, as set forth in the Town of Bethel Comprehensive Plan, the H-17B Zoning District was established to create a higher density commercial and mixed-use neighborhood of high quality around White Lake, where sewer services are readily available, pedestrian linkages can be effectively created and it is possible to establish a destination shopping center within the Town; and

WHEREAS, the H-17B Zoning District was also established as a gateway Zoning District within the Town of Bethel, along the primary travel corridors which are utilized to access Bethel Woods and which should supply a quality image of the Town and County to travelers along such corridors; and

WHEREAS, land area within the current H-17B Zoning District, especially within the area of White Lake, is generally limited to a total depth from NYS Route 17B of 250 feet, and divides many lots which exist within the H-17B Zoning District; and

WHEREAS, the configuration of the H-17B Zoning District has the potential to constrain the establishment of mixed commercial uses and destination shopping centers within the Zoning District where such constraint is unnecessary given the availability of sewer service from the KLSO; and

WHEREAS, this Resolution introduces Local Law No. 3 of 2009 which, if enacted, will amend Chapter 345 of the Town Code; and

WHEREAS, the action contemplated by this resolution subject to the State Environmental Quality Review Act (“SEQRA”) and the Town will seek to act as lead agency for environmental review purposes.

NOW THEREFORE, BE IT RESOLVED, that the Town Board hereby finds that the expansion of the H-17B Zoning District is necessary to achieve the purposes intended for the District, and that such expansion will be consistent with the Town of Bethel Comprehensive Plan; and be it

FURTHER RESOLVED that Local Law No. 3 of 2009 which, if enacted, will amend the Zoning Map authorized by § 345-08 of the Town Code, is hereby introduced; and be it

FURTHER RESOLVED, that a public hearing on the Local Law shall be scheduled for October 14, 2009 at 7:45 p.m. which public hearing shall be conducted at the Town of Bethel Senior Citizens Center and proper notice of the public hearing shall be duly given; and be it

FURTHER RESOLVED, that the Town Board hereby directs its planning and engineering consultants to prepare a draft revision of the Zoning Map of the Town of Bethel shall be prepared to expand the H-17B Zoning District to a depth of approximately 750 feet from NYS Route 17B and bounded generally by lot lines; and be it

FURTHER RESOLVED, that a copy of the introductory Local Law No. 3 of 2009 and revised zoning map shall be forwarded to the Town of Bethel Planning Board for its review and recommendation in accordance with Town Code § 48-2.B; and be it

FURTHER RESOLVED, that a copy of the introductory Local Law No. 3 of 2009 and revised zoning map shall be forwarded to the Sullivan County Department of Planning and Environmental Management, along with a full statement of the proposed action, for review and recommendation in accordance with New York State Town Law § 239-m; and be it

FURTHER RESOLVED, that the Town Board of the Town of Bethel intends to become lead agency under SEQRA and provide notice of its intent to all other involved agencies; and be it

FURTHER RESOLVED, that the SEQRA materials prepared in support of Local Law No. 1 of 2009 shall be evaluated for recommendation of whether the action evaluated under those materials encompasses the potential future amendment of the H-17B Zoning District, and if not, a full Environmental Assessment Form shall be prepared and delivered to the Town Board for review and consideration; and

FURTHER RESOLVED, this Resolution shall become effective when adopted.

Motion by Town Board member Robert Blais, seconded by Town Board member Richard Crumley, and adopted upon a roll call vote as follows:

	<u>AYE</u>	<u>NAY</u>
Robert Blais	X	
Richard Crumley	X	

Denise Frangipane	X
Victoria Simpson	X
Daniel Sturm	X

Duly adopted by 5 ayes, 0 nays the 26th day of August, 2009.

UTA Project Discussion

Mr. Blais indicated the Town Board should do a resolution to send UTA project to ZBA to what right things we can do to deny application.

Motion by Mr. Blais to see what right things we can do to deny application. There was no second to the motion. Ms. Frangipane asked for the building permit? Mr. Blais, right.

Statement by Supervisor Daniel Sturm

As some of you may recall from the last Town Board meeting, the Town Board is extremely troubled by the fact that the UTA Community Building was granted a building permit, despite the fact that the application for the Building Permit, dated October 27, 2008, clearly stated its intended use as a "community building." Under our old zoning code, which applied to the project, a "community building" is a "Special Use" that requires Planning Board review and approval. Nonetheless, a building permit was issued, on the basis of severely deficient and non-code compliant plans, the building built with amazing speed, and the UTA community applied for a Certificate of Occupancy in July - - despite the fact that the building was not even complete. The Building Inspector stated his belief that the building should receive a Certificate of Occupancy, despite the fact that the building was not complete. I instructed our Town Engineers, McGoey, Hauser & Edsal, to inspect the site and to conduct a file review of the building plans. Although they were refused access to the building by the UTA, our engineers could see even from the outside of the building that the site posed hazards to passersby, occupants, and residents of the Town. Furthermore, the site constitutes a nuisance. As our professionals reviewed the file in greater detail, it was clear that more had gone wrong that we did not know about. McGoey, Hauser & Edsal reviewed the building plans for the UTA community building, and found them to be totally non-compliant with the New York State Building Code. Upon the advice of our attorneys, I instructed the Building Department not to issue the C of O. UTA sued the Town, and that litigation is going on now.

On July 24, 2009, Judge LaBuda heard UTA's petition for a Temporary Restraining Order, and ruled that the Code Enforcement Officer was to give the UTA a Temporary C of O for the worship area on the first floor only. He reserved ruling on whether the building qualified for a Certificate of Occupancy, over the Town Attorneys' objections that he had no jurisdiction to hear the case -- it properly belonged before the Zoning Board of Appeals. Our attorneys asserted that the Planning Board should have been able to review the project, a review that could have saved the entire town and the UTA from all the hardships caused by issuance of the Building Permit on faulty, deficient, non-code compliant plans. Our attorneys will continue to defend the Town, but this nuisance has made it clear that the Town Board had to assure that this situation would never happen again. I promised you in our last meeting that this will never happen again.

The Code Enforcement Officer has staunchly supported issuance of the building permit, despite the fact that the proposed building identified in the UTA building permit application was for a "Community Building," a Special Use that should have been referred to the Planning Board for review, before issuance of a building permit. After conducting the UTA building file review, I instructed the Town's Engineers to conduct a review of a cross section of projects submitted over a number years that the Building Department has been granting permits for, and overseeing. These include projects proposed and begun before I began serving as Supervisor. These projects are not just ones built by the Orthodox Jewish community.

Today, McGoey, Hauser & Edsal issued its preliminary 20-page report of its findings, which the Town Board has just received and is now reviewing.

The bottom line is this: Neither I nor any member of this Board will tolerate non-adherence to Town laws and codes, non-compliance with the New York State Building Code, or any willful circumvention of our laws or community standards by any Town employee. Regarding the Schultz Road community building plans, McGoey, Hauser & Edsal found shocking irregularities, deficiencies, non-compliance with the New York State Building and Energy Codes, and the need for a remedial design. This must be corrected by stringent design, review by engineering professionals, and review by the Planning Board. It is also notable that UTA is in violation of the New York State Environmental Conservation Law, because It failed to submit a Storm Water Pollution Prevention Plan, before construction. The Building Department failed to point this out, although the Town Engineers identified the problem last month. Because of this violation, UTA Is now subject to an enforcement action by the New York State Department of Environmental Conservation, and violations of the ECL carry with them civil penalties of up to \$37,500 per day of violation. Had Planning Board review occurred, this problem would have also been solved before construction began.

As we move forward, the Board, using its powers and local, state, and federal law where necessary, will be proactive in ensuring that matters involving this building are resolved in the best interest of the Town as it relates to the health, safety, and welfare of all of its citizens. We have tried to reach out to the UTA for a resolution, but this can only be accomplished if they provide remedial design plans that remediate the many serious flaws and problems with the community building, and submit to Planning Board review. The information and plans on file with the Building Department are 50% complete at best -- hardly making a building eligible for a temporary certificate of occupancy let alone a final certificate of occupancy. I want to remind the owners of the UTA building and colony it is not productive to deny the indisputable facts - namely that an enormous building used by hundreds of people was constructed without proper professional plans and oversight and was also built in violation of our Town Law, the New York State Building Code, and in violation of the New York State Environmental Conservation Law.

As I did last month after an executive session, I want to state again, the Town of Bethel wants to ensure that all development and construction in our town is properly reviewed by the appropriate town and state agencies, and that this review is done methodically following all local, state and federal laws. In short, I and the Town Board believe our laws and building codes are to be applied the same way for all people and all development projects. I believe the citizens of Bethel are entitled to a government that provides them with development projects that, regardless of size or political influence, are safe and legal, compliant with the law, and comport with community character. In this instance, by law, the Schultz Road building should have had complete Planning Board review before it was built based on existing law at the time. In fact had this planning board review taken place, we likely would not be experiencing the many problems we face today. Planning Boards are, by design, set up to analyze and mitigate many of the complex and difficult issues we now face after the fact -- including life safety, health, environmental, traffic, and municipal infrastructure.

I have made this lengthy statement in public so the Board and I could clear the air on some important issues facing our community. I have responded to press inquiries and will continue to do so with the advice of my Board and our attorneys. Citizens and press alike, please feel free to reach out to me in the future when you need information.

Motion by Mrs. Simpson to receive and file Supervisor's correspondence, seconded by Mr. Blais, put to a vote and carried 5-0.

#141 – Resolution to Appeal UTA Building Permits

Mr. Blais withdrew his motion. Motion by Ms. Frangipane to send UTA project to Zoning Board to revoke building permit (Administrative Appeal) to allow to move forward, seconded by Mr. Blais, put to a vote and carried 5- 0. Mr. Sturm will prepare letter with assistance from Town Attorney.

#142 - Road Repair Agreement

- 1) Mount Hope Road and Old Tacy Road – 49,555’
- 2) Pine Grove Road & North Eldridge including Polaris Place – 1175’
- 3) Corner of 17B & Roslyn Ridge Road – 2,350’

Motion by Mr. Blais to approve to road agreement, seconded by Mrs. Simpson, put to a vote and carried 5-0.

#143 - Upper Delaware Scenic Byway Request for Resolution of Support

**Resolution of the Town of Bethel, Sullivan County,
New York in Support of the Upper Delaware Scenic Byway Visitor Center**

Whereas, Federal and State funding has been secured to develop an Upper Delaware Scenic Byway Visitor Center at the Cochecton Station along New York State Route 97 in the Town of Cochecton, as called for in “An Enhancement Concept for the Upper Delaware Scenic Byway” (New York State Scenic Byways Corridor Management Plan, finalized in January 2002 with the participation of all municipalities along the Route 97 corridor); *and*

Whereas, this regional initiative will fulfill a long-identified need to provide orientation services to the estimated 250,000 visitors that annually travel through the Upper Delaware Scenic and Recreational River Valley in Orange, Sullivan, and Delaware Counties, NY, thereby boosting the tourism-based economy; *and*

Whereas, capital construction funds are proposed to come from a \$510,000 project earmark secured by Congressman Maurice D. Hinchey, Jr. in the FY 2004-2009 Federal Transportation Equity Act bill, supplemented by a \$150,000 match of cash and/or in-kind services from Sullivan County, and \$250,000 from a FY 2007 New York State Senate Initiative secured by Senator John J. Bonacic, to cover the estimated \$910,000 cost of the facility; *and*

Whereas, the County of Sullivan, through the Division of Planning and Environmental Management, has agreed to serve as Project Sponsor for the administration of the federal and state grants, and filed a Notice of Intent on September 5, 2008 to designate itself as Lead Agency under the New York State Environmental Quality Review Act process; *and*

Whereas, the Cochecton Preservation Society, Inc. has agreed in principle to transfer ownership of the approximately five-acre subject property to the County of Sullivan for development of the visitor center; the Cochecton Town Board adopted an August 13, 2008 resolution to enter into an inter-municipal agreement with the County of Sullivan to provide lawn maintenance, snow removal, and sanding services for the facility; the Upper Delaware Scenic Byway, Inc. adopted an August 25, 2008 resolution to pledge allocation of a \$25,000 New York State Senate Initiative grant for non-construction expenses such as exhibit design and furnishings; and discussions are underway with entities including the National Park Service Upper Delaware Scenic and Recreational River and Sullivan Renaissance to contribute additional partnership services; *and*

Whereas, the Upper Delaware Scenic Byway Visitor Center conceptual design includes an approximately 3,000-square-foot building with screened parking, situated to complement the restored 1850’s-era Erie Depot historic site, and featuring exhibit display space, a public classroom/theater, restroom facilities, a kitchenette/vending area, and two small offices;

Now therefore, be it resolved, that the Town of Bethel Town Board hereby supports the design and construction of an Upper Delaware Scenic Byway Visitor Center on New York State Route 97 in the Town of Cochecton.

On a motion by Councilwoman Denise Frangipane to adopt resolution, seconded by Councilman Robert Blais and approved by a vote of 5 ayes and 0 nays on this 26th day of August, 2009.

#144 - Correspondence from Monticello Central School District dated 7/28/09

Correspondence from the Monticello Central School Board regarding legislation that will allow schools to average their contingent budget cap increase over 5 years. Motion by Mrs. Simpson to receive, file and send letters of support for State Bills A8852 and S5822, seconded by Mr. Crumley, put to a vote and carried 5-0.

Correspondence from NYS Dept. of Transportation traffic signal upgrade at 17B/55

Correspondence has been received from the New York State DOT for traffic signal upgrades to Route 55 and route 17B including crosswalk markings, directional signs and an island at the Ultra Power for a signalized cross walk. Attached to the letter is a schematic of the upgrades. Motion by Mrs. Simpson to receive and file, seconded by Mr. Blais, put to a vote and carried 5-0.

Liquor License application for Bethel Woods Bistro and Gallery

Liquor License renewal application has been received fro Bethel Woods Bistro and Gallery. Motion by Mr. Blais to receive and file, seconded by Mr. Crumley, put to a vote and carried 5-0.

#144 – Simcha Leisure Estates Engineer’s Report

The Town Supervisor reported that Simcha Leisure Estates has not taken any action on their property for the violations that exist. Motion by Mr. Blais to set public hearing for September 23, 2009 at 7:45 p.m. for the unsafe structures located on Mt. Hope Road, owned by Simcha Leisure Estates at tax map # 8-1-4.1, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Correspondence from the Catskill Center re: Planning Board Training

A training flyer for the Planning Board has been received from Catskill Center. Motion by Mr. Frangipane to receive and file, seconded by Mr. Crumley, put to a vote and carried 5-0.

#145 - Stipulation and Consent to settle Article 7 for Verizon tax assessment

WHEREAS, proceeding is now pending in the Sullivan County Supreme Court, which proceeding has been brought by Petitioner for tax assessment reduction in respect to its assessment and which proceeding is brought pursuant to New York State Real Property Tax Law Article Seven, for the tax assessment roll year of 2009;

NOW, THEREFORE, the Petitioner and Respondents STIPULATE and AGREE that:

1. The assessments shall be reduced on Tax Map No. 35.4-2 (Highway 55) from \$285,400 to \$160,000 for the 2009 tax roll.
2. Petitioner will be paid refunds for the amounts, if any, paid by Petitioner as taxes on the original taxable assessment in excess of what the taxes would have been if said assessment had been fixed as determined in this Order.
3. This settlement is made in resolution of all past and present claims or proceedings with respect to Petitioner’s real property tax assessments in the Town of Bethel.

4. An Order may be entered upon this Stipulation by either party without further notice to the other party.

Motion by Mrs. Simpson to approve Article 7 Verizon tax settlement, seconded by Mr. Blais, put to a roll call vote and carried 5-0 as follows:

Roll Call Vote:	Daniel Sturm	Yes
	Robert Blais	Yes
	Richard Crumley	Yes
	Victoria Simpson	Yes
	Denise Frangipane	Yes

Correspondence from Bethel Historical Museum Director and Town Clerk

Correspondence has been received from Bethel Historical Museum Director, Bill Burns, and Town Clerk Rita Sheehan. Mr. Burns and Ms. Sheehan are thanking the Town Board for their support of the museum, reported over 320 visitors and collected \$341. in sales from May through August.

Public Comments

Judith Maidenbaum suggested a fence law for the Town and specifically for something in downtown Kauneonga Lake.

Mr. Sturm suggested having Mr. McEwan prepare a local law. Town Clerk suggested she could get a model ordinance from General Code and then the Town Board could have a work session.

#146 - Draft Fence Law

Motion by Ms. Frangipane for Town Attorney to prepare a draft ordinance for fencing, seconded by Mr. Blais, put to a vote and carried 5-0.

Adjournment

Motion by Mrs. Simpson to adjourn the meeting, seconded by Mr. Crumley, put to a vote and carried 5-0.

Respectfully submitted,

Rita J. Sheehan, Town Clerk