

## **21st Century Town Governance & Management Structure Bethlehem 2020 Implementation Committee**

### **Background**

This report flows from the original Bethlehem 2020 Report, which specifically called for “a nonpartisan committee to evaluate opportunities for modernizing Town government, including exploring consolidation of Town departments, encouraging shared services, and changing some of the Town’s elected offices to professional appointments.” This work has been influenced by the opportunities for cost savings identified in other studies, our own preliminary reviews of town functions, as well as the steady drumbeat for more modern, efficient and effective government at all levels. The options presented for consideration are based on available research and our discussions, and attempt to answer the question: What is the right governance model for Bethlehem?

### **Modernization Options** *for Town Board consideration and Voter approval*

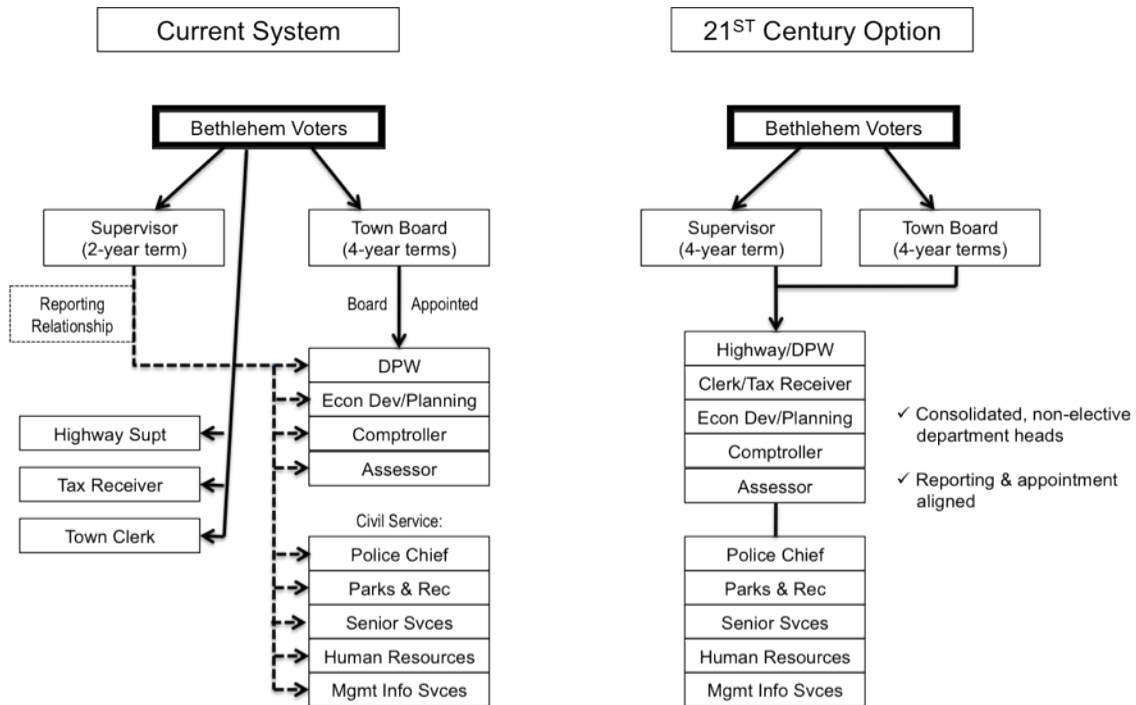
- Lengthen the term for Town Supervisor from two to four years
- Move to appointed department heads for all Town departments, eliminating elective offices for Highway Superintendent, Tax Receiver and Town Clerk  
*Note: Neither current incumbents nor those to be elected this fall would have their terms affected by this option, which would also require voter approval*
- Consider giving the Town Supervisor power to appoint or nominate some key policy-related positions, or conform their terms to the Supervisor’s

### **Rationale**

As a major and complex municipality, with a population of 33,000 (larger than most small cities), Bethlehem could benefit from a modern governance system with stronger executive control, streamlined management and without independently managed “silos.”

- Stronger executive control could help Bethlehem address long-standing issues and forge partnerships with other taxing jurisdictions.
- Moving from elected to appointed department heads (for the 3 of 12 Town departments where they still exist) would modernize and provide consistency in the Town’s management structure.
- It would facilitate coordination or consolidation of currently separate operations for Highways/DPW and the Clerk/Tax Receiver offices.
- Streamlined management and departmental consolidation would allow for lower costs and more effective services. Our study of consolidation possibilities for DPW and Highways tentatively concurs with the 2006 Interdepartmental Management Advisory Committee (IMAC) report that significant savings are possible; IMAC consolidation alternatives projected efficiencies of \$300,000 to \$425,000 annually. Additionally, a current review of Town financial management operations suggests consolidation of certain departments and duties could generate annual savings while preserving services and strengthening financial management.

- A modern governance system may help Town leaders respond to today’s fiscal challenges, rapidly changing environment and economic development opportunities.
- By establishing Bethlehem as a leader in local government efficiency and restructuring, we could position our Town to capitalize on state government interest and grant opportunities.



**Review Process and Findings**

In developing these options, we have reviewed available research and spoken with local government experts at the Association of Towns, several academic institutions, and to officials in other Towns that have made changes. We also spoke to the Town Attorney and current and previous Town officials (although this does not imply endorsement of our findings). To the extent possible we have sought examples from other local governments, although in some areas comprehensive data are lacking.

We acknowledge that those currently holding elected department head positions may have a different view than ours of the efficacy of these changes, and hearing from those officials will be an important part of the discussion. Further, we want to emphasize that these options should not be construed as criticism of any elected or appointed official or their staff. We simply believe that more efficient and effective organizational structures are available to address the significant challenges that Bethlehem faces.

Referenda are required for these options, which would give Bethlehem voters the power to decide whether they wish to continue certain department head positions as elective offices or change the length of the Supervisor's term. Any voter-approved changes would be prospective, and would not affect current officeholders or those to be elected this fall.

### **Four-Year Term for Supervisor**

Bethlehem's Town Supervisor currently serves for a two-year term. This compares to four-year terms for the other Town Board members. Towns can choose to move to a four-year supervisor term through a public referendum, and many have. A total of 279 towns have done so to date, nearly 30 percent of the 932 towns statewide. While unfortunately there is no unifying study detailing these individual decisions or comparing results, usually the choice is made along the same lines that led to four-year terms for mayors and governors – simply that a longer period is advisable for a leader to successfully implement improvements. We think that a four-year term would give Bethlehem's Supervisors a more workable timeframe within which to make improvements. Many observers, including previous Bethlehem Supervisors, believe that a two-year electoral cycle simply isn't enough time. We would also note that of all the towns who have gone to a four-year term, none have returned to two.

We believe that a longer term of office, in combination with other recommended options, would be beneficial. Many Bethlehem residents think of the Town Supervisor as they would a mayor or a chief executive, and are likely unaware of how little executive control that office possesses (with the exception of certain financial matters). The difficulty our Town has experienced in resolving some long-standing issues (for example, many raised by the Interdepartmental Management Advisory Committee or "IMAC" study) tells us that providing our elected Town Supervisor with a stronger hand administratively would be a positive step. A longer term of office would also provide a more stable timeframe within which to develop partnerships with other taxing jurisdictions, develop partnerships, and be in a position to act more effectively on priorities like economic development.

### **Moving Away from Elected Department Heads**

Having elected department heads within Town Government appears to have notable disadvantages, and the elective posts of Highway Superintendant, Tax Receiver, and Town Clerk could be eliminated in favor of appointive professional positions, making them consistent with the other nine Town Department Heads (many of which head larger operations). This change would also allow for consolidating the operations of currently separate, though similar, departments including the Highway Department, the Department of Public Works, and the offices of the Clerk, Tax Receiver, and possibly other financial or clerical operations. These changes would also more clearly focus accountability for Town affairs with our elected Town Board and Supervisor, which we believe is appropriate.

**Departments with Elective Heads**

Highway Department (60 staff)  
Tax Receiver (3 staff)  
Town Clerk's Office (3 staff)

**Other Town Departments**

Department of Public Works (60 staff)  
Economic Development & Planning (10)  
Police Department (60 staff)  
Parks & Recreation (10 staff)  
Senior Services (6 staff)  
Comptroller's Office (4 staff)  
Assessor (4 staff)  
Human Resources (3 staff)  
Management Information Svcs (4 staff)

The current arrangements, it should be noted, are somewhat an accident of history, and even a casual observer would probably wonder at the differentiation. That is, why the heads of the Highway, Clerk and Tax Receiver offices are elective, whereas, for example, the Commissioner of Public Works, the Director of Economic Development and Planning, and the Comptroller are not. In truth, as has been acknowledged in recent Commission reports and academic studies, this distinction is purely historical. Offices created in the early 1900s or before were historically elected, whereas those created later are not. The current system, based on the somewhat dated default provisions of the Town law, bears little relation to how large the departments are or how complex the functions.

The options we suggest are in full concurrence with the findings of the Lundine Commission on Local Government Efficiency (see Appendix 2), which concluded that separately elected posts may stand in the way of shared or combined services. Simply put, the tradition of elected Tax Receivers, Clerks and Highway Superintendents is a vestige of a time when towns in New York were almost exclusively rural, generally without a municipal workforce, a full-time supervisor, independent audits, or any of the other modern management tools of which Bethlehem already has the benefit.

We note that the majority of towns statewide (577, or 62% of the total number) have already chosen to eliminate tax receivers/collectors as a separate elective office, usually placing that responsibility with town clerks (whether elective or appointive). There is anecdotal evidence that more communities are taking up these changes. For example, in Onondaga County the Towns of Dewitt and Geddes have eliminated their positions of tax receiver (the Geddes referendum passed most recently by a vote of 530 to 55 and the change is expected to save about \$100,000). Referenda have also recently passed in communities like Wheatfield and Van Buren.

A majority of towns continue to have elected town clerks, although 43 appoint their clerks (as do villages). Whether elected or appointed, the town clerk acts as the secretary of the town board, has custody of the records of the town, accepts filings required by law, and serves as the records access officer for purposes of the Freedom of Information Law; many other duties vary by town.

In the case of highway superintendants, a much smaller proportion of towns have moved away from elective office (873 town highway superintendants remain an elective office; 59 are now appointed). While a unified study is lacking, the idea of eliminating the elected office and combining the highway function with a Department of Public works is increasingly coming under discussion as towns across the State search for new ways to do more with less. In Chemung County, where a concerted effort to share services is underway, several towns have converted to an appointed highway superintendant. Generally, when towns eliminate an elected highway superintendent, this function is combined with the operations of Departments of Public Works, which are also labor-intensive operations involving heavy equipment. Note that this issue applies exclusively to towns, as cities and villages do not have elected highway superintendants. The common sense proposition is that separate departments with separate workforces and equipment inventories must offer opportunities for efficiency and performance enhancement if combined. As noted earlier, a previous analysis for Bethlehem projected potential savings in the \$300,000-\$425,000 range (IMAC study).

The options we suggest would make changes only for future terms; they do not involve removing any sitting elected officials, including both those currently holding office, as well as those to be elected this fall. As referenda are required, these options would give Bethlehem voters the power to decide whether or not they wish to continue elective offices for the three Town departments where they still exist. Any changes approved by voters would be prospective, and as described in these options, changes first take effect for terms commencing in 2014.

We stress that the presentation of these options should in no way be seen as criticism of current officeholders, or of the work done by the employees in the Departments they head. We have no reason to believe that these Departments are functioning poorly. We simply believe that there are better organizational structures available that can yield cost savings and operational improvements and that there is little modern day rationale for having elected offices to head these three departments. The historical rationale, direct democracy, was designed at a time when towns were almost exclusively rural and their functions were few.

Bethlehem has eliminated an elective office previously with good results, and now has an appointed assessor providing excellent service. We suspect that Town residents are likely more interested in operational improvements than in maintaining elective offices where no policy-making role exists and which many believe to be outdated. The changes we suggest, if approved by the Town Board and the voters, could help reduce costs, improve operations, and achieve efficiencies over time. However, our strong preference is that they will be implemented in a way that avoids layoffs.

### **Appointment and Term of Department Heads**

We think there would be a benefit to giving the elected Town Supervisor the power to directly appoint or nominate some department heads (subject to approval by the Town Board). The terms for appointive posts should also be reviewed, aligning appointive terms to the Supervisor's term where appropriate.

In Bethlehem, the supervisor currently appoints only the deputy supervisor (an uncompensated position with no staff) and an administrative assistant. The people who lead the 12 operating Town departments are either appointed by the Town Board (as a whole, including the Supervisor), elected by the voters, or filled through a civil service process (i.e., subject to competitive examination, professionally qualified, with neither the Supervisor nor Board free to make at will appointments).

We believe that providing the Supervisor with appointment or nominating power for some key posts, in combination with other modernization options, would be beneficial. Many Bethlehem residents think of the Town Supervisor as they would a mayor, and may be unaware of how little executive control the office possesses, with the exception of certain financial matters. Making some key department heads truly answerable to the Supervisor would enhance management control.

### **Town Department Heads by Method of Appointment**

#### **Elected**

- Town Clerk: (2-year term, current incumbent N. Moquin)
- Highway Superintendent: (2-year term, current incumbent G. Sagendorph)
- Receiver of Taxes: (4-year term, current incumbent N. Mendick)

#### **Appointed**

- Commissioner of Department of Public Works (by Board, 1-year term, J. Cansler)
- Comptroller (by Board, 2-year term, S. Traylor)
- Assessor (by Board, 6-year term, P. McVee)
- Director of Economic Development & Planning (by Board, 1-year term, M. Morelli)

#### **Civil Service**

- Parks & Recreation – N. Lanahan, Administrator
- Senior Services – J. Becker, Director of Senior Services
- Human Resources – M. Tremblay-Glassman, HR/Payroll Manager
- Management Information Services – J. Dammeyer, Director
- Chief of Police – L. Corsi

We are suggesting a reconsideration of Town management positions, possibly including giving the Town Supervisor direct appointment power for some positions, or the power to nominate positions subject to Town Board approval. In combination with reconsideration of elective department heads, this would allow the Town to

reach a current and comprehensive consensus, with a consistent rationale and approach to department head positions. Giving the Town Supervisor appointment or nominating power would require referenda, although aligning terms would not. Since we envision that choices in this area will take some time, we have not outlined referenda for these purposes in the timeline below.

We expect that those department heads currently appointed through a civil service process would be left as is – i.e., professionally qualified, subject to competitive examination, and with neither the Supervisor nor the Board free to make at will appointments. Individuals in these positions, like other town employees, will continue to serve without respect to electoral changes either in Supervisor’s office, or the Town Board generally.

Currently the appointive department heads include the Director of Economic Development and Planning and the Commissioner of Public Works (both are subject to a one-year appointment by the Town Board), the Comptroller (appointed by the Board for a two-year term which overlaps supervisor terms), and the Assessor (appointed by the Board for a six-year term, as specified in state law). In addition, if any of the elective offices for Tax Receiver, Clerk and Highway Superintendent were to be converted to appointed positions, these or successor positions would be part of the consideration. In this report we are not considering the Town Attorney (which is not a department head position and serves at the pleasure of the Town Board) or the Justice Court operation (a component of the court system).

In some areas, neutral competence may be the highest value – with Board appointment and overlap of supervisor terms preferred (e.g., the Comptroller and possibly Town Clerk if the position becomes appointive). In other areas, the Town may be better served by having Department Heads serving with and answerable to the Town Supervisor. Although we have not attempted to determine which positions these would be, our thought is that it should be those positions with the greatest involvement in policy. The goal would be for a rationalized approach explicitly adopted by the Town to reflect modern day conditions. Possibly the Town could seek State assistance in reaching these determinations, with a view toward developing better information on the most advantageous organizational structure for modern suburban towns.

### **Timeline**

Voter approval is required for all changes affecting elective offices, and there is a long lead-time to make changes. Accordingly, we would like to see a discussion begin now, with a public information effort preceding referenda, which could be placed on the November 2011 ballot but not to take effect until 2014.

We think these changes might best be approached as a group of referenda on modernization of town governance on this fall’s ballot. If approved, changes could take effect for terms beginning pursuant to the next election, which in most cases would be January 2014. This approach would not affect any incumbent

officeholders, nor would it affect the terms for those elected this fall, although certainly those seeking elective office could become involved in the discussion.

While it is possible to hold a referendum at any time, scheduling them separately from regular elections carries additional costs and participation is usually far lower. For example, the Town of Malta held a special referendum on March 15 to abolish the elective office of Receiver of Taxes and transfer the function to the Town Clerk, but the measure tied 71 to 71, in extremely low turnout for a town of over 13,000.

Bethlehem 2020 will continue to look at specific efficiencies and improvements available through consolidating highway/DPW and Town financial management functions, with updates to the Town Board helping to inform the discussion. However, we do not believe that a Town-wide discussion should wait until completion of these studies.

We believe that these modernization options are common-sense propositions backed by Commission reports and other examples. Voters need not wait for the details of implementation choices, which will in any event be made over time by Bethlehem's elected leaders. And while we believe that there will be savings associated with these actions, as a nonpartisan Citizen's Advisory Committee, we are not empowered to make the specific operational decisions that will be required to implement changes, and which will determine the level of savings.

Following is a suggested timeline. The rationale for beginning this process now is that (i) adequate lead time is needed for leaders to discuss and citizens to consider these options, and these issues would be more in focus in a local election year, and (ii) if the Town chooses to move forward with modernization options that could be replicated elsewhere, Bethlehem could be well-positioned to compete for the Governor's new Local Government Performance and Efficiency Program.

**Public Discussion:** To begin immediately

1. 2020 Implementation Committee acts on submission of the report to the Town Board (completed - April 6, 2011)
2. Release the Bethlehem 2020 Implementation Committee report (will be posted to town web site on 4/21) with agenda for Town Board Meeting
3. Second quarterly 2020 update to town board – April 27
4. Encourage questions and comments from the public; continue input opportunities for town department heads. (ongoing)
5. Town Board, community leaders and civic groups consider and discuss Modernization Options (public forums May-July)
6. Subsequent Updates from Bethlehem 2020 Subcommittees looking into possible operational improvements, as well as any other available studies, could help to further define potential savings or other effects (ongoing)
7. July – 3<sup>rd</sup> quarterly 2020 update to town Board



8. August – Town Board considers local laws to authorize one or more referenda; which must be adopted on or before September 9, 2011 (see NOTE on timing below)
9. November 8, 2011– referenda on ballot for voter action

**Four Referenda:** Could go to voters in November 2011

1. Extend the term of Town Supervisor to four years, taking effect for the term beginning January 2014 (i.e., applying to the supervisor elected in 2013)
2. Eliminate the elected position of Receiver of Taxes and transfer duties to another officer, effective 2016 (or 2014 for consistency)
3. Eliminate the elected position of Highway Superintendant, to take effect January 2014
4. Convert the position of Town Clerk from elective to an appointee of the Town Board, effective for the term beginning January 2014 (& possibly extend the term to 4 years to overlap the supervisor's term)

NOTE: These changes affecting elected offices require the Town Board's adoption of a local law subject to a mandatory referendum at a general election held not less than 60 days after the adoption of thereof. This would mean town Board adoption, after a public hearing, on or before September 9, 2011 (assuming only the regular meeting schedule of the Town Board, this would imply adoption at the August 24 meeting). Further, local laws must be introduced and in final form at least 7 days (exclusive of Sundays) before passage. This would mean introduction at the August 10 meeting and scheduling of public hearing(s) for August 24 or an intervening date between the 16th and 24th of August.

**Departmental Changes:** Timeline to be determined, pending public discussion, Town Board decisions, and further analysis.

- Potential Highway/DPW and Clerk/Receiver Consolidations – detailed work and consideration by the Town Board and Supervisor will take time; 2020 Implementation Committee will present additional work in this area for their consideration by September 2011.
- Review Town Department Head positions – comprehensive evaluation of positions including whether some should be directly appointed or nominated by the Town Supervisor. Changes to the Town Supervisor's powers to appoint or nominate some would require referenda, but as the timeline is yet to be determined for these choices, we have not included such referenda in this outline.

**Note:** Appendix I (following) includes an Illustration of this suggested timeline by year, providing an example of when elections and appointments would occur.

## **Appendix I – Supporting Information**

### **Illustrative Timeline by Year**

For illustrative purposes, here is a listing of the positions to be elected/appointed, by year, demonstrating how the process would change if referenda were put on the ballot in 2011 by the Town Board and approved by voters.

#### **2011 (November Election)**

- Supervisor election, for a two-year term (2012-2013)
- Two town board members to be elected to four-year terms
- Town Clerk election for a two-year term
- Highway Superintendent election for a two-year term
- Receiver of Taxes election for a four-year term
- Four Referenda go to Voters (assumed to pass, for purposes of this timeline)

#### **2013 (November Election)**

- Town Supervisor Election, for a four-year term (2014-2018)
- Two town board members to be elected to four-year terms

#### **2014 (January)**

- Town Board appoints a Town Clerk for a two-year period (2014-2016)
- Highway Superintendent is now an appointed position, possibly combined with DPW, appointed by the Board or Supervisor, for a term to be determined.

#### **2016 (January)**

- Town Clerk appointed by Board for a four-year term
- Receiver of Taxes elected in 2011 term would end, and at this point the position could be eliminated, with the function being carried out by another Town office

### **Statewide Town Organizational Statistics**

(source: NYS Association of Towns)

Of 932 Towns Statewide:

- 647 town supervisors have a 2-year term, 279 have a 4-year term
- 889 towns have elected town clerks, whereas 43 appoint their clerks
  - 403 town clerks have a 2-year term, 518 clerks have a 4-year term
  - 577 town clerks serve as tax collectors or receivers
- 873 town highway superintendents are elected; 59 are appointive
- 441 town highway superintendents have a 2-year term; 447 a 4-year term

### **Process for Conversion from Elected to Appointed**

To convert any of the three elected Department Heads (Highway, Receiver or Clerk) to an appointive office, a local law passed by the town board, as well as a mandatory referendum of the voters is required. Voter approval can occur on a general election day or by a special referendum, provided the Town Board passes a local law at least 60 days before the election date. Separate local laws, and therefore referenda, are necessary for conversion of each position. Timing challenges include that it would be awkward to have a proposal converting positions to appointed at the same time voters are electing people to such offices. However, separate special referenda carry additional costs and participation may be lower. Referenda are therefore usually enacted with a delay (taking effect at the end of terms).

## Appendix II – Lundine Commission Extract

### Lundine Commission on Local Government Efficiency Recommendations on Elected vs. Appointed Town Officers

Extract from Final Report, p. 46, available online at:  
[http://www.nyslocalgov.org/pdf/LGEC\\_Final\\_Report.pdf](http://www.nyslocalgov.org/pdf/LGEC_Final_Report.pdf)

#### Conversion of Elective Offices to Appointive

**The following administrative positions should be converted from elected to appointive offices by statute: town highway superintendent; town clerk; assessor; town tax receiver and collector.**

Making changes at the local level requires a lot of willing parties. When the change that is proposed is functional, impacting a specific service rather than the entire structure of a municipality, resistance is frequently mounted by the local official in charge of that function. When the local official is elected, rather than appointed, merging of municipal departments or service sharing with another municipality becomes quite difficult.

We believe that there is no need to elect people who carry out administrative functions and that direct state action to convert these positions is warranted rather than relying on town-by-town referendum. These non-policymaking offices demand specific skills. Many of those currently in positions we propose for conversion have that specific knowledge and should be retained.

We also recommend the elimination of the office of elected assessor (at the end of current elective terms). Although most municipalities have already taken this step, assessors are still elected in about 150 municipalities. Assessors who submitted testimony to the Commission emphasized the service they provide to their constituents, and we have no doubt that most are responsive to the electors of their districts. Many will be able to continue that service as appointed officials, or as employees of a county assessing unit. Town tax receivers and collectors made similar arguments. While we appreciate the viewpoints offered, it is the Commission's finding that these are not policymaking, and therefore do not require direct accountability to the electorate. These are professional or administrative functions that would better be handled through an appointive or civil service process. Moreover, the existence of elected officials in these roles may stand in the way of consolidating functions. Similarly, elected town tax receivers and collectors should be converted to appointed positions at the end of current elective terms and the requirement that receiver/collectors be town residents should be eliminated.

For more information, see the Lundine Commission Brief on Conversion of Elected Local Offices: [http://www.nyslocalgov.org/pdf/Conversion\\_of\\_Elected\\_Local\\_Offices.pdf](http://www.nyslocalgov.org/pdf/Conversion_of_Elected_Local_Offices.pdf)