

TOWN BOARD  
JUNE 10, 2009

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 6:00 p.m.

PRESENT: John H. Cunningham, Supervisor  
Samuel Messina, Councilman  
Kyle Kotary, Councilman  
Joann V. Dawson, Councilman  
Mark Hennessey, Councilman  
Kathleen A. Newkirk, Town Clerk  
James T. Potter, Esq., Town Attorney

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Supervisor Cunningham welcomed everyone to a regular meeting of the Bethlehem Town Board. He asked Deputy Comptroller Webster to lead the pledge of allegiance. The Supervisor thanked Mr. Webster.

Supervisor Cunningham noted this is the last Board meeting of the spring. He said the next Board meeting will be the summer Board meeting.

The Supervisor asked if there were any public comments on agenda items. There were none.

Supervisor Cunningham said the next item on the agenda was approval of Town Board minutes of May 13, May 27 and June 3, 2009.

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to approve the Town Board minutes of May 13, May 27 and June 3, 2009 as submitted. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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The next item was a presentation by Jeffrey Lipnicky, Town Planner, on the U.S. Route 9W Corridor Linkage Study recommendations. The Supervisor mentioned Mr. Jukins and Ms. Benware were in attendance from CDTC to help with the presentation. Town Planner Lipnicky thanked the Supervisor noting what he was going to do is give an overview of the Route 9W Corridor Study that was recently completed.

Mr. Lipnicky said he would start with the study background indicating most of the presentation was going to be about Route 9W itself, the existing conditions and proposed improvements. He said he will spend a couple minutes on the Selkirk Bypass and then a little bit about cost of improvements. He said the study is an outgrowth of the 2005 Town Comprehensive Plan and within the plan the Town primarily focused on land use recommendations for both the Town and the corridor. He said part of one of the recommendations that was contained in there was that the Town follow-up with a study of Route 9W to tie the land use with the transportation improvement plan of the corridor. He said that was a Tier I priority in the Comp Plan so that is what this study was primarily about.

Mr. Lipnicky explained the study was funded under the Capital District Transportation Committee's Linkage Study Program and really this is a cooperative effort between the Town and CDTC. He said other major participants in the study included Route 9W Study Advisory Committee which consisted of Town residents, as well as, representative from New York State Department of Transportation, Capital District Transportation Authority, Albany County and also Capital District's Regional Planning Commission. He noted the Consultant was Wilbur Smith Associates.

Town Planner Lipnicky proceeded to review the information and the study contents along with the recommendations of the Committee including funding possibilities. He explained the study area extended from Hannay Lane in the north to Cottage Lane in Selkirk in the south, about 6 miles along Route 9W. He said as part of the analysis they looked at existing conditions including natural features in the corridor and cultural features. He said they also looked at transportation conditions including levels of service. Bicycles and pedestrians were also considered, according to Mr. Lipnicky, along with the safety aspects.

Town Planner noted there is public transit in the corridor and around 2003 and forward ridership has increased, 450 percent, significantly on that line. Truck traffic issues were considered and the main issue was Maple Avenue in Selkirk, Mr. Lipnicky said.

Town Planner Lipnicky noted they forecasted out traffic conditions into the future as part of the study based on the land use recommendations and current zoning. He said over a 20 year period they forecasted out the potential for some 3.7 million additional square feet of non-residential space and 2300 housing units. He said if that ever came to pass that would translate into about 9,000 new vehicle trips during the p. m. peak hour.

Mr. Lipnicky noted one of the conclusions was that no major corridor wide improvements such as adding travel lanes throughout the corridor or not is not necessary. He said the primary deficiencies that they identified would be from Feura Bush Road to Route 32. He said there were some intersections also that would need significant improvements including Wemple, Bender and Feura Bush Road. Other deficiencies obviously with higher traffic volumes would result in more crashes along Route 9W and also exacerbating the safety issues for both pedestrians and bicyclists.

Town Planner Lipnicky said action to be taken would be in the section of Route 32 from Feura Bush Road to Route 32 there will be a need to add some travel lanes in that section. He noted they might be able to do 3 lanes but he thinks the 4 will suit things better.

Town Planner Lipnicky said they feel a need for roundabouts at Feura Bush Road and at Bethlehem Town Center driveways and bike lanes and sidewalks on both sides of the road. He said there are a couple areas that have been identified as bus stop locations. He said one thing to be considered when development comes in across from Town Center is creating a loop to make easy access for public transit which comes in the direction of up Route 9W and then has to head back south.

Mr. Lipnicky said from Beacon to Wemple, traffic is not quite as heavy into the future but they looked at medians in the vicinity of the intersections and minimize the amount of turn movement conflicts. He said they would be looking at raised medians there and potentially a roundabout at Beacon Road and access management guidelines which would basically say you can have access to the property but you have to do one of 2 things. He said they are speaking in terms of 5 foot shoulders, street trees throughout the corridor and in the vicinity of Wemple is to look at another roundabout at Wemple and look at the zoning for a possible change to Hamlet zoning. From Wemple to Creble, Mr. Lipnicky said, the area east of 9W is largely zoned Mixed Economic Development and through this area there is a need for future collector road to service the economic activity. He said they will be talking about a new collector road. He noted roundabouts at Creble and Jericho noting the idea of shared access for right in/right out is arterial management.

Mr. Lipnicky said there would be a look at continuing the sidewalks along Route 9W on one side to Jericho Road and then basically westward toward Elm Avenue East and residential development on Jericho. He said the other thing they talked about in this area was looking into traffic calming along Hague Boulevard which really serves as bit of a short cut from 9W through to Elm Avenue East. He said from Creble Road to Maple is the area the Committee identified for a future

corridor for the Selkirk Bypass. He said there would have to be thinking about reservation of land through the area for the corridor, a roundabout at the Creble and Route 9W intersection and sidewalks that would run up from Maple Avenue in Selkirk to A.W. Becker school, as well as an off road connection to the school. He said to continue the idea of 5 foot shoulders, street trees and the other thing the Town should be thinking about in this area is zoning amendments in the vicinity of the Selkirk Bypass in order to maintain the compatibility between the new truck, route and adjoining land use.

Town Planner Lipnicky noted the Selkirk Bypass dates back to about 1989 and at that point there was a previous study of the Route 9W corridor study which identified the truck land use conflict issue in Selkirk. In response the Town proposed a bypass that would run south of the hamlet of Selkirk, according to Mr. Lipnicky, and was placed on TIP in 1993. He said since that time the project has languished because of disagreement about the alignment of the road, funding and other reasons.

Mr. Lipnicky said the purpose of their evaluation was to look at the feasibility of building a bypass in the Creble Road area and secondly to compare the relative merits of a northern/southern and central alignment. He said the goals of the bypass would be to remove truck traffic from 396; improve quality of life; to establish potential economic development opportunities consistent with the Town Comp Plan; reduce 9W traffic; lessen the need for improvements or future improvements along those roadways; in the design to minimize residential business and environmental impacts; and lastly goes along with the economic development opportunities to create opportunities for private sector investment in the road and participation in its funding. He noted resources are limited so there needs to be a look at the private sector to help out on some of this stuff. Mr. Lipnicky displayed the 3 options that were looked at.

Town Planner Lipnicky said the Committee's vision of this road is a 2 lane road that is all that is needed, 35 to 40 miles per hour design speeds with trees, shoulders, pedestrian bicycle accommodation and design that is sensitive to residences and the environment.

Mr. Lipnicky next discussed the costs which would be in the range of \$27 to \$40 million and obviously depends on exactly what improvements will be necessary as traffic growth emerges on Route 9W. He said the Selkirk Bypass was premised on a new road and a new alignment and the Town has been pursuing utilizing existing Creble and that came subsequent to their finishing the study. He said to do a separate alignment to the Thruway would be about \$24 million and then an additional \$1 million to take it from the Thruway down to Route 144. He mentioned currently there is about \$12 million available to committed on the regional TIP to the Selkirk Bypass and beyond that he does not know of any money that is committed to the corridor.

Town Planner Lipnicky said potential funding sources through CDTC or various programs that are listed here as an alternative way of funding can be looked at. He said couple different things can be looked at including going through a Generic Environmental Impact Statement process and potentially developing mitigation fees for development in the corridor which would be similar to what occurred in the area of the Albany Airport. He said project specific SEQR mitigation, developers evaluate their project and the impact on the transportation system and then either do the improvements or pay a fee to accomplish the improvements. He said the third potential thing that can be looked at is the development of a transportation development district which essentially would be a special district devoted primarily or solely to funding transportation improvements similar to a water district or to what we have now, a stormwater management district.

Town Planner Lipnicky said in addition there are some recommendations in the study and in the summary regarding the types of things we should be doing in the short term to move towards this and among them is to really put together a committee to look at how do we fund all this stuff. He asked if there were any

questions.

Councilman Messina asked about the funding scenario noting that he looked at the report as to the next steps in a 2 year and 3 year and 5 year plan. He asked about the TIP dollars locked in or are they not locked in. Mr. Jukins said there is a commitment to doing something in Selkirk. He said it is part of the region's long range plan and it has been part of the tip as mentioned since 1993. He said it is difficult to answer the question indicating it is not going to be there forever. He said he thinks the work the Town has done for quite some time now both under the previous administrations and this one has helped keep the flame lit under this project. He said as long as progress is being shown to move this along funds will remain or the commitment will remain. He said they are not going to last forever because of the huge demand that we are facing region wide for all kinds of projects.

Councilman Messina said the other point is just more of a comment, from the letters from residents and others and petitions that he has seen that have been gathered, it appears that the Selkirk Bypass probably if it is in the Creble Road area is kind of one of the lightning rods for public interest. He said all he asks in reaching out to his fellow Town Board Members and the Supervisor for is as this is narrowed down, as this is looked at in regard to more detailed utilization in that corridor, the issues of environmental sensitivity, impact on homes, churches and frankly a detailed look at the costs that might be associated with that in terms of dollars and in terms of quality of life be compared against the benefits. He said they talk about the benefits of economic development of 2,400 housing units and 3.0 something million square feet, noting he would like to see that turned into actual estimated dollars so that we really know what they are looking at. He said he thinks as the Town goes down the road thinking of the corridor a little wider than just Creble Road and using that might serve us very well in the first instance. He thanked the Supervisor.

Councilman Kotary said he had a few questions going back to the 9W portion of the discussion. He asked in reference to the current vicinity and that there are 200 access points, what would be the ideal number of access points and when looking at 9W, he thinks they would want to decrease the points. He asked if that was a measure to look at. Town Planner Lipnicky said perhaps Mr. Jukins can elaborate on the appropriate standard but one of the things that needs to be done as a follow-up to this is to look at that and start to develop some standards in terms of driveway spacing, site distance, and things of that nature. He said also under what circumstances should there be shared driveways or full access. He said at this level of analysis that was looked at in the study they did not get there.

Mr. Jukins noted the approach taken in Colonie was one of flexibility because they want to keep this as flexible as possible for the private landowner and the developer. He said they try to avoid imposing a specific standard. He said there are ways to help connect parcels and do shared driveways but the point is trying to keep it as flexible as possible. He said if you look at the northern part of 9W right now roughly between Delmar Bypass and Feura Bush Road, that is the kind of approach that you should look for. He said minimizing driveways at intersections that are controlled either through a traffic signal or a roundabout indicating that is the ideal situation. He said trying to connect properties along the back or the front. He said what they want to try to avoid is the situation that is at the intersection of Feura Bush Road and 9W where there are a lot of properties with individual driveway access on both streets and they are right up at the intersection. He said to point out, the recent reconstruction of the Mobil station and the Dunkin Donuts where everyone agreed to pull those driveways back as far as possible is beneficial. He said if they can achieve that much that is what they are looking for. He said with a standard you could be faced with no driveway within 400 feet of the intersection but the parcel is small and if you try to meet that standard basically what you are looking at is an open lot not a business or any other kind of use. He said those are the principles.

Mr. Jukins said the other point, the critical inter driveways are commercial driveways. He said they have a lot of volume and residential driveways are not necessarily a problem, usually lightly used, they are not creating the problem. He

said the problem with residential driveways is that it is not the driveway, it is the house. He said when they have an arterial street with a lot of houses on it it becomes a question of liveability and neighborhood quality of life more than conflict of traffic.

Councilman Hennessey said one thing concerning is the idea of the roundabout right at Feura Bush and 9W. He said the people that own the properties have just done all that remodeling asking how you put a roundabout there. Mr. Jukins said the consultant did spend some time looking at the fit and it looks like a highbred single lane roundabout probably could fit. He said there would probably be some impact to the parking at Price Chopper plaza but they are not looking at any disruption to any businesses or taking any businesses and not really impacting parking that much. He said there would be a need for a retaining wall in the Town Squire shopping center but the simple answer is it can fit. He said if they are looking at a larger intersection that requires a 2 lane roundabout then it may be difficult but for the moment a single lane roundabout or highbred which would mean basically a single lane with a second lane on part of it would fit based on the information that they have at this level. Supervisor Cunningham said it is his understanding that when the Mobil was redeveloped they took into account the design of a possible roundabout. Mr. Jukins said he thinks there is a schematic in the report. Town Planner Lipnicky said the study itself contains 2 schematics of how that intersection might be treated and from what they have seen the only property that is impacted to any degree would be the Price Chopper.

Councilman Kotary said one of the things that is pretty intimidating is when you look at the totality of these projects and the huge dollar amount. He said this seems to be a regular conversation that is had. He said he noticed 2 types of programs in particular - Intelligent Transportation System recommendation of utilizing more ITS technologies and the other was aggressively marketing travel demand management programs. He said he is wondering if there are things that might be able to be implemented in the mean time as they progress toward the potential large construction that may help ease traffic and make it safer and help with some of the flows being mentioned before getting into large expansions and huge dollars. Town Planner Lipnicky pointed out that even though the numbers are big they have to realize all these improvements are not needed now. He said they are talking about improvements depending upon what the pace of growth is in the corridor it could be 20 or 30 years. He said the most important thing to consider is that they have to plan for this and allocate for this in terms of future development.

Mr. Jukins said the recommendations regarding pedestrian access, cycling access and transit are all part of a larger TDM program. He said part of TDM includes staggered work hours and ride sharing and that type of thing. He said more oriented toward a large employment center which the Comprehensive Plan is looking toward MED zones. He said certainly as they move in that direction as they have in other areas in the Capital District, he thinks of Harriman Campus as one where they are looking at creating a TMA - Transportation Management Association - where they get employers together, talk through a right sharing opportunities and transit and bring CDTA in and so on and so forth. He said they get them to work together to find ways so their single vehicle impact to the system is less. He said in the mean time as this corridor is developed if it can be more pedestrian friendly, more bike friendly, if building and site designs are developed to be friendly they can divert some of the trips away from the private automobile. He said by themselves there is no silver bullet but every little bit helps and by doing a little here and in other parts of Town, little bit in parts of the region, the benefits are huge in terms of their quality and reduced energy consumption so on and so forth.

Mr. Jukins said they do have a program with CDTA and speak to employers when they are invited. He said they try to invite themselves but they cannot force them. He said that is all part of the mix.

Councilman Kotary asked about the Bypass and echo so it is in the report what his colleague suggested and that we carefully look at a cost benefit analysis looking at the economic, environmental and transportation impacts of any of the

potential routes, whether there is still 3, indicating he has been on the Board for 4 years and they have talked a lot about it. He said they have talked about it even decades before that. He said one of the things he was curious about was in regard to any of the alignments, 2 lanes, 30 to 40 per hour speed and asked if that was the right type of road if a large part of the purpose is to get large trucks and create economic access from the Selkirk railyard and corridor to the Thruway. He said it seemed to him that a little quicker access would be what they are looking for. Town Planner Lipnicky said there is no reason to think we need a freeway through here. He said there is not much distance to cover. He said there is from the Thruway to 9W,  $\frac{3}{4}$  of a mile maybe. He said the question is where are you going. Are you going 60 miles an hour and by the time a truck gets up to 60 miles an hour they will have eaten up the  $\frac{3}{4}$  of a mile. Mr. Jukins said it will provide better service than what is there now and we are all so concerned and recognize that the area around any new road whether it is along Creble Road itself or brand new road on a new alignment, it is not only being surrounded by or served business community and technology kind of development but also serve residential development as well. He said the idea is the faster the speed, the higher the noise and the more noise there is, the more conflict it creates. He said they are not looking at this road, although it is called a truck route, but it is not thousands of trucks. What they are trying to do, according to Mr. Jukins, is minimize the impact on Maple Avenue and pull those trucks off. He said they are looking at perhaps 600 trucks a day at most. He said most of the traffic on this road will be automobile traffic that is serving residential areas in the corridor, businesses, whatever and also providing better access to other parts of Glenmont and possibly Delmar as well.

Mr. Jukins said what they were asked to do is look at this relative to the Comp Plan and what it is looking at for the future in this corridor. He said that is roadway design, trying to keep it simple as they did for the Slingerlands bypass as well. He said it provides better service but at relatively modest speeds as opposed to a 55 or 60 miles per hour highway. He said that is not something they are looking for in the Town of Bethlehem.

Town Planner Lipnicky said the other thing to go that route increases costs and this section of road is not only going to serve the through traffic function but it also is going to serve an access function to adjacent land. He said if this area is zoned Mixed Economic Development around the bypass, they want to be able to provide access to that land and promote new industry in that area. He said they need to be able to do both.

Councilman Dawson said this was an amazing accomplishment indicating there is a lot of information and have a number of very large components to this report. She said she wanted to go back to the Feura Bush/9W, asking about the words adequate or tolerable noting that a lot of people who travel through there every day would disagree with. She said she thinks they have seen mistakes made in the past that now they are trying to remedy and it is important for the Board to get a head of the curve on some of this. She said there is a lot of improvement despite the current economic situation. She said there are the improvements going on at Glenmont Grand Union/Ames. She said hopefully a new tenant coming into the Kmart location. She said eventually it is anticipated that the east side of 9W across from Lowe's and Walmart will be built up. She said that is going to bring an incredible amount of pressure to an area that really appears to be at its maximum right now. She said when talking about that intersection, they are not talking 20 years but something that has to happen a lot sooner. She said she does not know how long it takes. She said she thought Mr. Jukins could tell how quickly these things can occur once they have the plan and then to actually get the shovel in the ground. She said she thinks that is an area that is screaming for attention and she thinks the residents of the Town are wondering how can the Board let additional development occur when the infrastructure isn't there. She said she thinks it is a real priority for the Town.

Town Planner Lipnicky said the Feura Bush intersection is one of those more short range ones. He said they have to bear in mind that when they use words like tolerable, acceptable level of service, they are traffic engineering terms. He said

they are based on an objective standard of so many seconds of sitting at a traffic signal. He said that is purely what it is based on. He said just because one person says it is acceptable, does not mean it is going to be acceptable to everybody. He said they need some common measure and that is what they used.

Councilman Messina said in regard to Councilman Dawson's comment that it leads to the notion of doing some things you might be able to do earlier rather than later. He said those things that might be more feasible, more economically viable. He said when you look at the overall plan and an anticipated build out of 84 percent or \$64 million coming from the private sector, that's a lot of assumptions there. He said although he sees half a dozen potential funding scenarios from various Federal programs, State programs, grants, etc. there is no assurances that they are coming or when they will be received. He said as he looks at this, he wonders as they move toward the more aggressive and expansive construction type projects the Town might not be talking a bonding situation that it is looking to receive monies back in to offset that. He said if that is the case, the Town has to be realistic about that going down the road. Town Planner Lipnicky said is certainly a possible approach and has was said in the study itself, in looking at the numbers, they are way up in terms of their look. He said over the next couple of years, if this is going to be pursued, the Town needs to put together some type of committee or some type of further investigation on how it is paid for. He said that is going to be in and of itself be quite a project.

Mr. Jukins said the important thing here too and it cannot be emphasized enough, the idea of partnerships. He said if this is successful in working with the private sector, developers, whatever and it can be shown to have a significant commitment they are talking about a million dollars or so. He said it is more likely a project like that competes at the CDTC table will be more successful. He noted timing is everything and it looks like within the next year or so, they will be soliciting once again for projects. He said it did compete in the last process but was unsuccessful because there were other projects that scored better. He said they were limited to the kind of funding sources that were available so it did not meet the criteria exactly. He said it is a good project and it has sound planning behind it and if a commitment and partnership can be done, the likelihood of something like that succeeding is much higher. He said again he wanted to emphasize that when this was looked at they are not looking at designing a transportation system that is going to provide fantastic level of service in 20 years. He said they are looking at something that is going to do better than today at a reasonable cost. He said if they can widen 9W to 3 instead of 4 and if that works, that becomes more affordable than the bigger option. He said all of these options can help reduce the cost and help transportation. He noted they are taking this approach across the region.

Supervisor Cunningham asked if there were any other questions from the Board. There were none. He asked Mr. Bill Haddad if he had a question. Mr. Haddad asked what the cost to maintaining a mile of a bicycle lane per year. Mr. Jukins said it is the same cost to maintain a lane of roadway. He said he did not have a cost for that but it would be the cost of simply making sure it is clear of debris and snow removal in the winter. He said usually they have a 20 year life so in 20 years it would require resurfacing, noting the cost of building a bike lane itself, is about \$500,000 a mile. He said typically what the cost is to keep it clean and keep the snow clear in the winter is the typical maintenance costs. Mr. Haddad said he was asking because it is one thing to build it and it is another meeting when you have to maintain it.

Mr. Haddad said he is interested because he travels that corridor every day and knows the problems on the corridor. He asked if the impact of the 787/87 interchange with 9W in Albany been included as part of the study. Supervisor Cunningham said it has not, this is 9W within the Town of Bethlehem from Route 32 all the way down to Maple Avenue/Route 396. He said it was his personal experience that the traffic is not that bad until you get passed the underpass to the Thruway and then the highway is backed up from Albany all the way up the hill. He said we could have the greatest 9W to that point but unless Albany is encouraged to fix that problem it is not going to help. Supervisor Cunningham asked Mr. Jukins to please work on that for us. Mr. Jukins said the Thruway has

looked at that and they cannot afford to do anything at the moment. He said they looked at improving the whole area and there are huge impacts to the neighborhood. He said he thinks they are trying to avoid the impacts. He noted it has been looked at and offered to share some information with Mr. Haddad.

Supervisor Cunningham asked Mr. Haddad if he had any other questions. Mr. Haddad said he did not and thanked the Supervisor. He asked if anyone else had any questions. Ms. Linda Jasinski said having worked on the committee and with these people, she said there were lots of hours put into it and lots of thoughts about it. She said the big picture you have to remember is this is what we think it should look like many, many years from now when it is all done. She said it is not a planned road and start at one end and start all the improvements all the way down. She said as something comes along that builds in, they know what they think we want that section to look like to take advantage of that and say now you have to put your exit turning lane in and the roundabout or that kind of thing. She said Feura Bush Road is a priority now because that is where it is but they have to plan for the whole thing. Councilman Dawson said she thinks that is a great accomplishment. She said just getting that plan together has been very good. She believes this is right, as developers come in, we can say all right here are the issues and here is what we want you to contribute toward. She said one of the things she thinks both Dave and Jeff, as Linda as a Member of the Committee have been very good about is looking at the big picture, not just this driveway or this intersection. Ms. Jasinski said this is way up here and you can look closer as things get going. She said there were a lot of improvements from the shopping centers going in on 9W.

Supervisor Cunningham mentioned that the Members of the Committee have been working on this longer than he has been Supervisor. He said he appreciates the work and the whole Committee's work for all the efforts which have paid off and will be useful tool for the Town moving forward. Ms. Jasinski said she thinks so too.

Mr. Mike Daley said he worked on the committee and mentioned in total what the Town needs to look at is use some systems thinking and begin to recognize that a lot of the improvements that have been talked about in the Town plan and some of the hamlet ideas the Committee was mindful of when they pursued this process. He said as the Capital District area is changing from a dominate State worker to a dominant knowledge worker, they were also mindful that many of our decisions that they were coming to make their recommendations bared that in mind.

Mr. Daley said using systems thinking, he thinks there has to be a projection forward and see what kind of taxpayers are going to be in the commercial and residential base. He said that was a big part of their decision.

Supervisor Cunningham thanked Mr. Daley, Mr. Lipnicky, Mr. Jukins and all the Members of the Committee for their hard work.

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Supervisor Cunningham said the next item on the agenda is a presentation of the independent auditor's report for the year ended December 31, 2008 by Comptroller Traylor and the auditing firm of Teal, Becker & Chiamonte, CPA's, PC. Comptroller Traylor said the evening would be started out with the auditors and their report. She introduced Katie Doran and Sarah Lawyer.

Ms. Doran said in front of the Board is a very lengthy report and there is a full agenda. She said she would not go through every number in detail. She said all the numbers and the notes to the financial statement do not come from them as auditors, they come from the Town. She said their job is to audit them and determine if they are fairly presented. The only thing in the report that belongs to the auditors, according to Ms. Doran, are the independent auditors report, the report on internal controls, the required communication with those charged with governance and a management letter. She said those are what she will go through now.

Ms. Doran said the numbers should be no surprise because the Town is updated on the financial status of the Town on a frequent basis and those numbers come from the Comptroller Suzanne Traylor.

Ms. Doran said the first report right after the table of contents is the independent auditors report. That tells the Town that they have audited that accompanying financial statements of the Town, said Ms. Droan, in accordance with auditing standards generally accepted in the United States of America with a couple of exceptions. She said there are things that are not included in the financial statements that would be ordinarily included in accordance with generally accepted accounting principles but the Town has elected not to include those. She said the reasons for not including these things is a cost benefit approach. She said one of the items is a General Fixed Asset accounts group, however, it has not been appraised and the records are not really available for them to audit and verify. She said they do not express an opinion on these assets.

Ms. Doran said the other thing that would be generally included accepting financial principles is the liability for post employment benefits other than pensions which would be health insurance provided to retirees. She said the Town includes the cost of that health insurance in expenditures on a pay-as-you-go basis. She said general accounting principles which would require an actuarial valuation of the liability and provide that in the financial statements. She noted she did not know how much it would cost to have an appraisal of fixed assets and an actuarial determination of the liability for post employment benefits. She said the Board would have to weigh is if the benefit of including those disclosures and numbers in the financial statement outweigh the cost to the Town. She noted would that information be more useful than the cost to obtain it. Ms. Doran said it has been determined so far that the cost does not outweigh the benefit to include those.

Ms. Doran said those are the exceptions that they have in the audit report. She noted these financial statements are presented on the basis that is acceptable to the Office of the State Comptroller in New York State. She said not necessarily general accepted accounting principles. This is the way the financial statements have been presented in years and that has not changed. She said that is the way NYS accepts the report and that is the information that is provided to the Town to run the Town.

Ms. Doran said they did not audit everything that is in the report, noting that some of the report is required supplemental information that is not necessary for them to audit. She said it is noted that they did not audit it.

Ms. Doran said the next section is management's discussion and analysis which is provided by the management of the Town which actually comes from the Comptroller's office which is a summary and synopsis of all the financial information that is included in the report. Supervisor Cunningham noted the Comptroller went over that last week and asked if any of the numbers changed. Ms. Doran said they did not.

Ms. Doran asked that the Board Members go forward to the report on internal control over financial reporting on compliance and other matters based on an audit of the financial statements. She said the audit is done here in accordance with Government Auditing Standards. She said in planning and performing their audit, they consider the internal control over financial reporting as a basis for designing the audit procedures and not to express an opinion but letting the Town know they do consider the system of internal control in designing the audit procedures. She said they would be required to report any control deficiencies that exist. She said it exists when the design or operation of internal control does not allow management or employees in the normal course of performing their assigned functions to prevent or detect misstatements on a timely basis. She said a significant deficiency which is defined as a control deficiency that adversely affects the Town of Bethlehem's ability to initiate, authorize, record, process or report financial data reliably.

Ms. Doran said a material weakness goes a little beyond just a significant deficiency and results in a more than remote likelihood of the material misstatement would not be prevented or detected. She said their consideration of internal control of financial reporting was just for the limited purpose explained before and it did not identify any deficiencies in internal control over financial reporting that is considered to be material weaknesses. She said she would in this report let the Town know if the testing and walk through of the internal control identified any material weaknesses. She said they were happy to report that they did not identify any material weaknesses that should be reported to the Board.

Ms. Doran said they also do tests of compliance with certain provisions of laws, regulations, contracts and grant agreements, non-compliance of which could have a direct and material effect on the termination of financial statement amounts. She said the results of the test disclosed no instances of non-compliance or other matters that would be required to report under government auditing standards. She said they did note some other matters that are advisory matters. She said nothing disclosed of material weaknesses or significant deficiencies in the internal controls. She said point out that every year when they do their audit, believing this is the third year, they try to do different tests so that everything is not predictable when they come in.

Ms. Doran said this year they kept in mind that there had been a change in personnel in the Comptroller's office and did some different tests. She noted they design their tests to cover a sample of the entire year. She said with the change in personnel, they do not have any significant deficiencies or material weaknesses to report. They are pleased to say that she noted.

Ms. Doran said there is another report that says SAS114 in the packet and that is a required communication. She said they are required to report certain matters to those charged with governance, noting the Town Board are charged with the governance of the Town. She said they are required to report any significant audit findings and they want to remind that management is responsible for the selection and use of appropriate accounting policies and significant accounting policies used by the Town have been described in Note 1 of the financial statements. She said no new accounting policies have been adopted and the application of existing policies was not changed during 2008. She said if they had noted any transactions noted into by the Town for the year which there was a lack of authoritative guidance or consensus, they would be required to report that. She said they did not note any.

Ms. Doran said all significant transactions have been recognized in the financial statements in the proper period. She said they do want to remind everyone that accounting estimates are an integral part of any financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. She said they did not note any sensitive estimates affecting the financial statements which they would be required to disclose separately.

Ms. Doran said if they encountered any difficulties in performing the audit, they would be required to report that. She said they were very pleased to report they did not encounter any significant difficulties in performing their audit.

Ms. Doran said they had any corrected or uncorrected misstatements that were material they would be required to report that. She said any misstatements that they detected as a result of the audit procedures were not material and were corrected by management and adjustment entries were made, there were no material adjustments. She said if there were any disagreements with management over accounting principles, their application or the selection of accounting principles even if it was resolved, they would be required to report that to the Board. She said they were pleased to report that they did not have any disagreements with management during the course of the audit.

Ms. Doran said they do require management to make certain representations to them as part of their audit and the audit is not complete until they receive this

management representation letter. She said they were pleased to report they did receive a management representation letter which says in summary that they provided them with all the records, that they represented that the information is complete and accurate and that there is nothing withheld from them.

Ms. Doran said if management had decided to consult with other accountants and shop around for the right audit opinion and they were aware of that, they would be required to let the Board know. She said they are not aware of that at all.

Ms. Doran said generally prior to the engagement each year or throughout the year they may discuss certain accounting principles or applications of accounting principles or any discussions like that or in the normal course of the engagement and not a requirement to the firm being hired as the auditors and this information is intended solely for the use of the Members of the Town Board and management of the Town and should not be used by anybody other than the specified parties.

Ms. Doran said the next letter is very brief and not a lot that had to be pointed out to the Board. She said these are not really, as mentioned before, material weaknesses or significant deficiencies, they are just small matters that they want to bring to the Board's attention. She said during the audit, they inquired of several Board Members -- noting they are required to make inquiries about all kinds of matter during the audit and they change it up every year and inquire of different people -- and if there was an audit committee of the Board, they would inquire of the committee. She noted there is no audit committee and there appeared to be some confusion about who or the charge of the audit committee as opposed to the charge of a board. She said the Town in New York State are not required by anybody to have a separate audit committee of the Board. She said public authorities are required to have a separate audit committee, school districts but the Town is not required to have a separate audit committee nor does the Town. She said in the absence of an audit committee, the Board as the Town Board acts as the audit committee. She said they are responsible for hiring the auditors and they are required to report to the Board. She said they wanted to let the Board know that in the absence of an appointed audit committee the Town Board is charged with overseeing the financial report process including engaging the auditors, reviewing the overall audit plan, review the audited statutory financial statements and the related management letter. She said the Board could choose to appoint an audit committee in the future and that is something that would be the Board's decision. She said if the Board decides the Town Board as a whole has too much on their plate and they choose to separate certain tasks out into committees, that may be a committee they decide to do. She said if the Board decides not, the Board is responsible and act as the audit committee. She said that is the point they wanted to make. She said there seemed to be a misunderstanding of that.

Ms. Doran said the Comptroller's office has had a change and they would suggest shifting some of the duties within the office so that there is a better separation of duties so that the same person who is preparing some of the records is not the one who is ultimately responsible and there is somebody reviewing other people's work. She said they do not have a plan as to how that should be changed but the Board should work that out with the Comptroller's office. She said they suggest shifting around some of the responsibilities so that there is a better segregation of duties there. She noted they did not find any problems with the actual reporting but changing things would not be a bad thing to do.

Ms. Doran said they wanted to thank the Comptroller's office for their assistance during the audit. She said they know they are disruptive when they audit any entity and everyone was extremely cooperative, had the records available when they were needed and thanked everyone.

Ms. Doran said she would be happy to answer any questions and noted the contact information is on the letterhead if any questions arise later.

Supervisor Cunningham thanked Ms. Doran and asked if there were any questions. Councilman Kotary asked about the first page, noting there are 2 entries

that talk about verification of reported balances. He asked for an explanation of what the entries mean. Ms. Doran said on the general fixed assets account group, it has some historical numbers in there of the general fixed assets owned by the Town - buildings, non-infrastructure. She said they did not audit them and noted there has not been an appraisal of these assets so there is nothing to be audited. She said that is excluded from the auditor's opinion. She said that was what she was mentioning that the Board could hire somebody to do an appraisal of those or change the presentation and make it in accordance with general accepted accounting principles and record depreciation on that. She asked if there would be more useful information. She said that could cost a lot of money and would the Town get more useful information from that, noting that was why she mentioned the cost benefit of that.

Ms. Doran said the other thing is there is a general long term account group which includes bonds payable and they were audited. She said what it does not include and what in general accepting accounting principles say should be included is a liability for post-employment benefits other than pension. She said the pension numbers are in there and those are audited. She said other than pension, primarily health insurance that is provided to retirees, there is no liability for that in the general long term debt account groups. She said to determine what the liability is you would need to hire an actuary.

Councilman Messina thanked Ms. Doran for her work and thanked Comptroller Traylor. He asked if there should be an audit committee that something other than the Town Board function and can that committee involve Town Board as well as staff to get the blended expertise that you need. He asked if the Comptroller could be a part of that committee or would that be an inappropriate role for her. Ms. Doran said that would be an inappropriate role for her in her opinion because you would not want someone on the audit committee whose work is being audited. She said whether or not there is an audit committee is really up to the Town Board. She said if you are comfortable with the entire Town Board being responsible for the financial reporting process or would you prefer to have some of the Board Members and, perhaps, outside people on an audit committee to delegate that responsibility to. She said the Board is not required to have an audit committee right now. Councilman Messina said he thinks the Board is fiducially responsible no matter what, noting it would be more of an advisory thing rather than anything else. Mrs. Doran said they are but sometimes the Board would delegate responsibility and then have that committee report to the Board. Ms. Doran said right now the Office of the State Comptroller in New York State does not require towns to have a separate audit committee. She said how long that will stay that way she is not sure.

Councilman Messina asked about the note on the Comptroller's office and separation of tasks. He asked if there are any systems or procedures or internal controls that could be placed in or used to compliment the work of the Comptroller's office other than separating the tasks and duties that might help this issue out a bit. He asked if there was any other way to look at that. Ms. Doran asked if he was talking about getting an internal audit function. Councilman Messina said he is talking about the Comptroller's office in your note, the second finding. Ms. Doran said shifting responsibilities, perhaps rearranging the responsibilities within the office would correct some of that issue.

Mr. Messina said there was an interesting form on page 69 of the report and it deals with local government questionnaire for 2008. He said there are a few things but a couple he wanted to raise in terms of some of the benefit of an audit is to really consider outside the black box what you are saying in terms of determining if they should make any changes down the road. He said he knows this is not a finding and it is not a criticism but when he sees does the local government participate in an insurance pool with other local governments and a similar question for an investment pool, and then have a length of service award for volunteer firefighters which may not even be in the Board's germane, he is not sure, he is wondering if there is anything else that could be advised to dialogue on other than the clear statement that they do not have those. Ms. Doran said this is a form that is required by the Office of the State Comptroller to be submitted for

every town within New York State. She said in their audit report they are specifically excluding this from the auditors' opinion. She said they did not audit these responses at all, this is prepared by the Town. She said they specifically excluded pages 69 through 71 from the audit report. She said they have not examined the questions or issues in order to give a response.

Supervisor Cunningham thanked Ms. Doran and asked if there were any other questions. There were none.

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The Supervisor said next will be the Comptroller with the budgeted results for the Town Board to take a look at. Comptroller Traylor said she promised at the last Board meeting that she would have a few slides on fund balance. She promised this would be brief but she wanted the Board to take a look at where we are especially with regard to all the funds and the funds individually. She exhibited a slide that was presented at the last Board meeting and it is also part of the management discussion analysis.

Comptroller Traylor said what is interesting is this shows the fund balance trends. She said this comes up year after year. She said fund balance is simply all the assets that the Town owns minus the liabilities and obligations of the Town and what is left over. She said it is what we think of as a rainy day fund or the money that the Town has set aside. She said this shows all 4 funds and the trend from 2003 to 2009. She said the next slide helps to understand what the trends mean when you take a look at the trend. She said the General Fund is where a significant amount of the tax dollars go to. She said it is recommended and she has asked a number of places about this and OSC recommends keeping approximately 15 percent of the appropriations as the fund balance. She said to determine what that is, she took the 2009 figures and simply multiplied that by the 15 percent. She said 20 would be the high end and 10 would be the low end. The blue line shows the 2003 figures there was a lot of money set aside, according to Mrs. Traylor. She said looking at the current line, the Town is still in a good place, 20 percent, noting the Town could go down to 10 percent if there is a need. Comptroller Traylor said the auditors in some instances have seen some municipalities go even lower than 10 percent.

Comptroller Traylor said in the Highway Fund it goes up and down but the fund is at 20 percent. She said well situated for what is ahead this year. She said the Water Fund had a peak and a dip but again it is okay. She said the Sewer Fund at one point was down in 2003 below where the Town wanted to be and now that has gone up and we are at a good level. She said the Town intentionally uses fund balance when we go through the budget exercise. She said a portion of the money is used to reduce the tax dollars that citizens have to pay.

Comptroller Traylor said in the past this has been presented as a bar graph and it is harder to see. She said the trend line you can see where it is. She said they try to keep it where it is noting the decline does not mean that it is necessarily a bad thing. She said she would be happy to answer any questions.

Supervisor Cunningham added that the fund balance accounting is in the audit report. He said there is no page number but there is a chart that indicates for General, Highway, Water and Sewer what the current fund balance is, what the expected uses for 2009 and what would be seen as a resulting fund balance and then what the 20 and 10 percent numbers would be.

Councilman Messina commented he thought it was a great information going into 2010 because in August the budget will be done. He said it is nice data to have.

Councilman Hennessey noted it is great to know that the fund balances are funded to a capacity where you can look at them and each of them is about at 20 percent or a little bit higher. He said it doesn't look like any of them are blown out of proportion. He said it looks like they are level and at a good place which that is good management. He thanked everyone.

Comptroller Traylor said in the past there is actually a graph that has been used and presented to 20/20 which combines all the fund balances. She said she thought that was something Councilman Kotary brought up at the last Board meeting. She said it was broke out so you could see all 4 of them. She said they are blended but they are separate.

Supervisor Cunningham thanked everyone.

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The next item was a request from Comptroller Traylor to acknowledge receipt of the 2008 report on Capital Reserve Funds. Supervisor Cunningham said the report was contained in the packet for the Board Members. He asked if there were any questions. There were none.

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The next item was a request from the Comptroller to approve the Town of Bethlehem Investment Policy and the 2008 Investment Report. Supervisor Cunningham said the policy outlines who the banks are that we are using for investments and then the report indicating what we received for interest in 2008.

The motion was made by Mr. Messina and seconded by Mr. Hennessey to approve the Town of Bethlehem Investment Policy and the 2008 Investment Report as submitted by Comptroller Traylor. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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The next item was a request to authorize the Supervisor to sign the Agreement for Advanced Life Support Services with Albany County.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to authorize the Supervisor to sign the Agreement for Advanced Life Support Services with Albany County.

Councilman Messina said he had a couple questions. He asked if we are already 6 months into this indicating the dates are January 1, 2009 through December 31, 2009. Supervisor Cunningham said yes, that was correct. Councilman Messina next asked about the dollar amount of this which is \$751,813 and clearly the issue of Advanced Life Support Services is one that we are going to put a priority on. He said that is a big number and there is no data here in terms of what other communities pay because they participate in this County program too. He said he is wondering, even though he will support this, if down the road it would be possible to have people from Albany County come in and give a presentation on the number of times they get here and what it means. He said he knows they complement our EMS activities.

Supervisor Cunningham thanked Councilman Messina and asked if there were any other questions. Councilman Kotary asked if there is a presentation along those lines. Supervisor Cunningham said it was kind of included when Steve was here speaking about the charge backs from the insurance. He did not remember if it was an actual presentation of just the specifics statistics on this.

The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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The next item was a request from Assessor, Patricia McVee, to approve application for exemption from real property taxes for Samaritan Shelters, Inc., 121 Waldenmaier Road, Delmar, pursuant to section 420-a of the Real Property Tax Law for the 2002-2003 assessment roll. Supervisor Cuningham explained the dollar impact to the Town if \$2,050 due to this being a retro on a tax exempt for a group home.

The motion was made by Mrs. Dawson and seconded by Mr. Hennessey to approve the application for exemption from real property taxes for Samaritan Shelters, Inc., 121 Waldenmaier Road, Delmar, pursuant to section 420-a of the Real Property Tax Law for the 2002-2003 assessment roll. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.  
Noes: None.  
Absent: None.

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The following item was a request from the Deputy Commissioner of Public Works, Erik Deyoe, to accept an all purpose easement for 797 Route 9W, Glenmont.

The motion was made by Mr. Messina and seconded by Mr. Hennessey to approve the acceptance of an all purpose easement for 797 Route 9W, Glenmont, New York as requested by Erik Deyoe, Deputy Commissioner of Public Works.

Councilman Dawson asked the location of this property. Commissioner Cansler said he was not sure of the exact location. Supervisor Cuningham asked the Commissioner if he knew specifically what it was for. Economic Development Director, Michael Morelli, noted it was a project regarding Mr. Barkman's approval on the west side of Route 9W, across from Van Allen Apartments, in the commercial zone and it was part of what Town Planner Lipnicky talked about earlier. He said they typically try to get these all purpose easements whenever possible for future improvements along the corridor. Supervisor Cuningham noted it is across the street from Van Allen Farms. Mr. Morelli said it is an old Victorian house that has been converted over. He noted it went to the Planning Board for site plan approval and that the easement was part of the approval.

The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.  
Noes: None.  
Absent: None.

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The next item was a request from Nan Lanahan, Administrator, Parks and Recreation Department, for approval of appointment of seasonal personnel.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve the appointment of seasonal personnel as listed in the Memorandum date June 10, 2009 at the titles and salaries listed as requested by Nan Lanahan, Administrator, Parks and Recreation Department. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.  
Noes: None.  
Absent: None.

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Supervisor Cuningham asked if there was any new business from the Board.

There was none.

The Supervisor made the following announcements:

- Tonight was the Garden Tour but it might be over by this time.
- Friday is the final meeting of the 20/20 Committee and the final recommendation report is being put together to be presented at the meeting on June 24. The Committee will meet Friday at 7:45 a.m. at the Elsmere Fire Department.
- Town pool will open on Saturday at 11 a.m.
- The Henry Hudson flotilla of ships will be coming up from Castleton at 11 a.m. to Albany.
- June 14, 2009 at 1 p.m. the Bethlehem Historical Association will open their exhibit on the Quadricentennial at the Museum and will be having an ice cream social.
- On June 16, 2009 at 6 p.m. there will be a meeting by Albany County on the rail trail project. They will be taking comments from the public on any thoughts about the project.
- June 20, 2009 is the Community Clean-up Day and volunteers are needed. Please contact Debbie Kitchen at extension 1159.
- July 3<sup>rd</sup>, the Town will be recognizing the 4<sup>th</sup> of July when the Town Hall will be closed and on July 4<sup>th</sup> there will be a reading of the Declaration of Independence on the front steps of the Town Hall. He noted Congressman Tonko will be in attendance to help to do the reading. He noted ice cream will also be served.
- On July 4<sup>th</sup>, the Town Park will be having a barbeque and family events will be going on.
- Note was made that the Selkirk Yards meeting scheduled for June 11 has been postponed and will be held in the fall. The Supervisor noted they are working on several small projects and they are not ready to report out to the larger committee yet.

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Supervisor Cunningham asked if there were any public comments on non-agenda items. There were none.

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The Supervisor asked for a motion to adjourn to Executive Session to discuss possible litigation.

The motion was made by Mr. Messina and seconded by Mr. Hennessey to approve adjourning to Executive Session to discuss possible litigation. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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The motion was made by Mrs. Dawson and seconded by Mr. Hennessey to adjourn the regular Town Board meeting at 7:47 p.m. The motion was carried by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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Town Clerk

EXECUTIVE SESSION

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For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

On a motion by Mr. Messina and seconded by Mr. Hennessey the Board approved Town Attorney Potter hiring special Council to handle a potential litigation matter which would require special construction litigation experience at a fee not to exceed \$200 / hour. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.