

**Town Board
June 23, 2010**

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 6:00PM.

PRESENT: Samuel Messina, Supervisor
Joann Dawson, Councilwoman
Mark Hennessey, Councilman
Mark Jordan, Councilman
Kyle Kotary, Councilman
Nanci Moquin, Town Clerk
James T. Potter, Esq., Town Attorney

Supervisor Messina called the meeting to order and lead the Pledge of Allegiance.

Supervisor Messina presented Sharon Fisher, the Town's recycling coordinator, with a resolution thanking her for her years of service and dedication to the Town. Ms. Fisher will be retiring in the near future. Ms. Fisher thanked Supervisor Messina and said she has enjoyed her years with the Town.

PUBLIC COMMENT ON AGENDA ITEMS-----

Brian Gerry – 10 Andover Rd. – He was against the Blessing Corner project. He felt there should be a moratorium on development in the Krumkill watershed. He requested a study of the area because per the Supervisor there has never been a study of the watershed. Construction on Rt.20 has had an effect on the Krumkill. DEC has stopped the Thruway from sending water into the Krumkill Creek without improving the water quality. The developer has done a lot of studies but not this one.

Jim Martley – 5 Blessing Road – Wanted the record of attendance at Town Board meetings to be placed back on the WEB site instead of having a hard copy available at the Town Clerk's office. Councilman Hennessey said at the public hearing that there were issues raised that needed further explanation. He was considering restrictions to address some concerns. Mr. Martley wanted to know what happened and a neighbor filled him in but he wasn't contacted by the Board.

Joan Shack – 4 Beverly Dr. – She is against the Blessing Corner project and doesn't want to see any changes in zoning. She bought into a single family area and wants it to remain the same. Ms. Shack asked for an explanation of the parkland in lieu of document.

Yuri Lvov – 29 Beverly Dr. – He is against the Blessing Corner project and the rezoning of the property. He is worried if there is rezoning, that commercial could come in the future. A lot of people had signed a petition against commercial uses.

APPROVAL OF 6/23/10 MINUTES-----

A motion to approve the Town Board minutes as drafted was offered by Councilwoman Dawson, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary
NAYES: none
ABSENT: none

PRESENTATION OF THE INDEPENDENT AUDITOR'S REPORT AND SINGLE AUDIT REPORT FOR THE YEAR ENDED DECEMBER 31, 2009, BY COMPTROLLER TRAYLOR AND BY THE AUDITING FIRM OF TEAL, BECKER & CHIARAMONTE, CPS'S PC-----

Representatives from the auditing firm, Katharine Doran and Sarah Lawyer were presenting. The Board was given draft financial statements at the meetings. They will be finalized after the firms and the Board's review.

Ms. Lawyer said they don't expect major changes in the draft documents the Board was given. She showed the letter to the Board that was required at the end of the audit. It states that management is responsible for selection of accounting policies. During 2009 there weren't any new policies adopted. She said the staff was helpful during the audit. Both the Comptroller and the Supervisor will be required to sign a management representation letter. The auditors felt the hiring of Michael Cohen was beneficial. The reason for the single audit was the Town had received more than \$500,000 from the federal government. Two reports for this audit must be issued. One is an internal financial control report. During the audit they consider the Town's internal controls over financial reporting. They did not define any deficiencies in the Town's internal control. The next report is a compliance report with requirements applicable to each major program and internal

controls over compliance. They test the Town's federal funds, they use a compliance supplement. This gives guidance to the auditors. They tested two (2) programs. They check compliance within the programs. They did not find any non-compliance with the items they tested. The Town complied in all material respects. The Town's management is responsible for maintaining internal control over compliance with the requirements of laws, regulations, contracts and plans applicable to federal programs. They considered the Town's internal control while testing compliance. They didn't find any deficiencies in internal control over compliance that they considered internal weaknesses. The schedule of federal expenditures by grant is included in the report. This information is a responsibility of management. There wasn't a single audit performed last year because the monetary threshold was not met. The dates will be put in place during the internal proofing process. The Town Board received the report this evening and would contact Ms. Lawyer with questions.

Ms. Lawyer said the next set of reports was the financial statements for the Town. They're completed by the Comptroller's office. The Auditors prepared the independent auditor's report. The Town prepares the financial statements using the accounting practices that are accepted by the State Comptroller, not generally accepted accounting principles. The audit opinion reflects that. The Town does not include the IDA in their reporting but numbers reflect the activities of the Town. Ms. Traylor said there is a separate deadline for the IDA and they report through a separate system. They make sure that the numbers used in the Town's management discussion and that the analyses are consistent with the numbers used in the financial statement. All the funds are listed in the report with assets and liabilities.

Councilman Kotary asked when the Town would need to comply with the other accounting standards. Ms. Traylor said the Town uses a different system that is acceptable to the State Comptroller. If OSC notifies the Town that they need to be compliant with that system; the Town will need to spend the funds to be compliant. They present in the OCS format. Ms. Lawyer said the auditors found that the Town's financial statement is presented fairly with the OSC standards. Ms. Traylor directed the Town Board to page 72 which started the section she considered to be the most important.

REQUEST FROM THE COMPTROLLER TO ACKNOWLEDGE RECEIPT OF THE 2009 REPORT ON CAPITAL RESERVE FUNDS-----

Ms. Traylor said this is a standard report that is submitted annually with the summary of the beginning and end balances of the Capital Reserve Funds. All the reserve funds are attached to the report. Because the Board just received the report, they would have a discussion at the next meeting if the Board has any questions or concerns.

REQUEST FROM THE COMPTROLLER TO APPROVE TOWN OF BETHLEHEM INVESTMENT POLICY AND THE 2009 INVESTMENT REPORT-----

Ms. Traylor said this was a summary of accounts in various banks that the Town holds. The banks are approved each year at the organizational meeting. It shows the high, low and average of the interest rates for the different funds. The investment policy is exactly the same as it was in the previous year when the Board approved it. The end of the report shows the eligible securities that the Comptroller can invest in. The majority of the investments are riskless. Appendix B shows all the cash and collateral value as of 12/2009. The last part is the interest earned for the year.

Supervisor Messina suggested tabling this item and then bringing it back in two (2) weeks for action, which would give the Board time to review the document. Ms. Traylor said this report is a snap shot of the financial dealings of the Town in 2009.

Councilwoman Dawson noticed that the Town had a 75% reduction in interest earned in 2009 from 2008. Ms. Traylor said the Town was not alone in this. CD's don't even pay the same rate as a money market account. Some indicators are hopeful that things will improve. She said interest is how the budget is balanced. The report also showed the interest income projections. They weren't optimistic for the 2010 fiscal year and the projections would reflect that. Councilman Kotary asked why the approval of the investment policy happened half way through the year. Ms. Traylor said the policy could be done at the beginning of the year if needed to be done annually but the audited results would not be available at the same time. Mr. Potter said the policy might roll over from one year to the next unless changed but he would look into it.

REQUEST FROM THE COMPTROLLER TO APPROVE FINAL 2009 BUDGET TRANSFER REQUESTS-----

Ms. Traylor said the report showed how the Town deals with budget shortfalls across departments. Line item budgeting is not done. The Comptroller's office must report on four (4) categories to OSC: salaries, fringe benefits, the total contractual and the total equipment. The budget transfers aren't done at the end of December because they don't have the final numbers. These transfers are used to balance the budget. The budget has not been modified but pockets of review are moved to areas where there were storages. The money has already been spent and audited.

The Highway Department's use of the work order system tracking has given the comptroller the ability to track more accurately where the money is going. For example; certain areas within that department can be under-budgeted and others will show a surplus so the funds are shifted around.

Ms. Traylor said they look for money that was not spent in one department and it is moved to a department that needs it. The adjustments are done for the balancing of the budget and OSC's concerns are for items that would have been outside of the budget. They are fine with these transfers. Ms. Traylor said these types of adjustments have been done before but this is the first time they were done all at once. If the Board decides, they can be done a few times per year.

A motion to approve the final 2009 Budget Transfer Requests was offered by Councilman Kotary, seconded by Councilman Jordan and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary
NAYES: none
ABSENT: none

REQUEST FROM THE ADMINISTRATOR OF PARKS AND RECREATION FOR APPROVAL OF SEASONAL PERSONNEL-----

A motion to approve the seasonal personnel as listed in Ms. Lanahan's 6/23/10 memo was offered by Councilman Jordan, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary
NAYES: none
ABSENT: none

REQUEST FROM THE DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING TO APPROVE THE PLANNED DEVELOPMENT DISTRICT APPLICATION FOR BLESSING CORNER, APPROVE A RESOLUTION THAT A FEE BE PAID IN LIEU OF PARKLAND RESERVATION FOR THE PROJECT, AND APPROVE AN AMENDMENT TO THE LOCAL LAW – SECTION 128-13 ZONING MAP TO REFLECT THE CHANGE IN ZONING DISTRICT DESIGNATION FORM RESIDENTIAL A TO PLANNED DEVELOPMENT DISTRICT-----

Mr. Morelli presented. The Comprehensive Plan adopted in 2005 included the Planned Development District as tool for diversity in housing types. This was an issue that had been brought up by the residents at that time. In the past two (2) years, the Board has approved two (2) PDD's; Van Dyke Spinney for senior housing and Phillipin Kill Manor, which includes three (3) types of housing. Phillipin Kill Manor as part of the approval will set aside thirty-five (35) acres as open space. Both of the projects are now before the Planning Board for further approvals.

In March 2009, the Town Board accepted the application for Russell Rd. Partners and since that time the proposed commercial use on the site has been eliminated from the project. The project today is for fifty-two (52) condominiums, leaving about 75% of the site as green space. Mr. Morelli said the Board had heard concerns from residents about the stormwater runoff problems in the area. The stormwater regulations have changed substantially. The current stormwater problems are from years of prior development when the regulations were different. This project would fall under the new regulations which stipulate that the runoff post construction can be no greater than preconstruction. Another concern was that rezoning to a PDD would open the door to a commercial use. Each PDD approval is very specific in the uses allowed on the site. If they applicant wants to consider a commercial use; they would need to come back before the Town Board. If they were to come in with a conventional subdivision, in a residential A zone, houses could be built up to twenty-five (25) feet from the property line. In the PDD a fifty (50) foot buffer is required and this applicant will be putting in a ten (10) foot landscaped berm. This will screen adjacent properties. When a residential project is approved, the Town Board has the authority to either have the applicant set aside parkland on their site or pay a fee in lieu of the parkland. It is recommended to have this project pay a fee. Mr. Morelli said this was a good project that advances the goals of the comprehensive plan and the applicant is a local developer that lives within 1,000 feet of the site.

Councilman Kotary said this diversity in housing did have a cost benefit to the Town. This type of housing is attractive to older people who want to stay in Town without the responsibility of s single family home and it's also attractive to young professionals. He thinks this a proper use of the PDD. He asked what would happen if the stormwater runoff ended up being greater than the preconstruction runoff. Mr. Morelli said when a SWPPP is approved, inspectors are on site and their engineers are required to be on the site to make sure that the plan is being implemented as approved. Any changes must be reviewed and approved by our stormwater officer, the Town Engineer and the Deputy Commissioner of Public Works. The SWPPP is a legally binding agreement and the Town can take action if they do not abide by it. The SWPPP will be part of the site plan approval.

Supervisor Messina questioned whether the applicant would have trouble financing a condominium project in today's financial climate.

Mr. McCloskey, a partner in Blessings Corners and a partner in Hershberg & Hershberg, said he has spoken with several banks that have said they would compete for the financing of the project. Two of those banks are financing a condominium project in Albany. They think the location of the project is excellent. Councilwoman Dawson said the applicant has been responsive to the residents and the Town.

Councilman Hennessey asked if the Town was in the process of putting together a study of the Krumkill watershed. Mr. Deyoe said the Town has been advocating for a more global look at the watershed issue. Through the stormwater coalition, neighboring towns are expressing the same types of issues in their towns. The study will take funding. The Town is advocating for the stormwater coalition and the regional planning commission to look for funding sources. This needs to be done on a regional level. There will be retrofits of older projects. Councilman Hennessey asked if it was premature to go ahead with a project that may have an impact on the watershed. Mr. Deyoe said the current stormwater regulations would insure that the project will have no effect on the Krumkill Creek. The older upstream projects have had an effect on Krumkill. The solutions to those problems are retrofit of the older projects.

Supervisor Messina said even though the Town and other organizations said something should be done; it didn't seem as if anything would be done any time soon. Mr. Deyoe said the cost for that type of study could be anywhere from \$50,000 to \$100,000, but that was a guess.

A motion to approve the Blessings Corner PDD was offered by Councilman Jordan, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Jordan, Councilman Kotary
NAYES: Councilman Hennessey
ABSENT: none

Discussion: There had been a lot of citizen participation and extra public meetings by the applicant. Councilwoman Dawson said there were other large developments pending in Town and she wanted to know how the areas marked for Hamlet zones were identified. Mr. Morelli said she would meet with her. Councilman Hennessey thought the project was a fundamental change to the neighborhood. He was not convinced of the benefit to the tax payers. He was not in favor of the project. He thought the PDD's were taking on the character of spot zoning. Supervisor Messina did not agree but felt the project was in accordance with the Comprehensive Plan. Councilman Kotary respected all of the input but he was a supporter of the PDD and looked at it as a flowing zone. The Comprehensive Plan was done with a tremendous amount of resident input and the PDD was added as a tool to be used as the Town saw fit. He was confident that the Town had the tools to address the project's stormwater. He was in favor of the project. Councilman Jordan felt it was in keeping with the Comprehensive Plan and thought PDD's were a good idea. They won't all look alike and it will be a good thing for the Town.

RESOLUTION NO. # 25

TOWN BOARD OF THE TOWN OF BETHLEHEM

APPROVAL OF PLANNED DEVELOPMENT DISTRICT (PDD)

**BLESSINGS CORNER
572 RUSSELL ROAD
PDD Application**

Pursuant to Section 128-40 (Planned Development District) of the Zoning Law of the Town of Bethlehem, the Planning Board of the Town of Bethlehem has reviewed the Blessing Corner Planned Development District (PDD) application, submitted by Russell Road Partners, for the development of a up to 52 residential condominium units, and forwarded comments and recommendations to the Town Board of the Town of Bethlehem.

Description of Project

The project involves an application for the establishment of a Planned Development District (PDD) in the Town of Bethlehem to be located on 11.53+/- acres of land located on the northwest corner of Russell and Krumkill Roads. This action will amend the current zoning district designation from a Residential A District (RA) to a PDD. One single-family residence currently exists on the site and will be removed as part of the project.

In addition to the existing driveway on Russell Road, the project includes the addition of one additional driveway on Russell Road. No driveways are proposed to access Krumkill Road as part of this project.

Project Location

The PDD would include 11.53+/- acres of land located on the northwest corner of Russell and Krumkill Roads in the Town of Bethlehem, Albany County, New York.

The zoning district designation of the following tax parcel, as shown on the current “Tax Map, Town of Bethlehem, Albany County, New York”, will be amended from Residential A District (RA) to Planned Development District (PDD):

63.00-3-1 currently zoned Residential A District (RA).

Title of Drawings

“Proposed PDD Development Plan, Blessings Corner at No. 572 Russell Road, Town of Bethlehem, County of Albany, State of New York” Drawing Numbers C1- Overall Plan, dated 2/15/08, last revised 2/24/10; C-2 Grading and Utility Plan, dated 12/16/09, last revised 2/24/10; and C-3 Site Cross Sections, dated 12/16/09, last revised 2/24/10 and prepared by Hershberg & Hershberg, Consulting Engineers and Land Surveyors, 18 Locust Street, Albany, NY 12203.

PDD Application Contents

This PDD application consists of the items required for submittal in accordance with §128-40 (C) of the Zoning Code of the Town of Bethlehem, as presented in the drawings cited above under “Title of Drawings”.

Conditions

This Approval of the PDD application is conditioned by the following:

A. Consistency with the Town Comprehensive Plan.

The project is generally consistent with the Comprehensive Plan for the Town of Bethlehem, as adopted August 24, 2005. Specifically, Section 4.12 (Town-Wide Recommendations) of the Comprehensive Plan emphasizes the need to provide a variety of housing types throughout the Town. Accordingly, the project will respond to the needs of the diverse population in the Town of Bethlehem by providing up to 52 residential condominium units.

B. Consistency with Town of Bethlehem Zoning Law For a Planned Development District

General. Town of Bethlehem Chapter 128 Zoning Law, effective September 1, 2006, contains specific requirements pertaining to density, yard dimensions, setbacks, building height, highway access and parking in a PDD, contained in §128-40 (H). In accordance with the requirements of this law, the applicant has submitted a PDD application for the review of the Town Board.

Minimum Area. This provision requires that a PDD must be no less than five acres in area, exclusive of existing easements, parks, streets, water areas in excess of 5% of gross land area, lands designated on the Official Map for public purposes, and lands undesirable for development because of topography, drainage or adverse subsoil conditions.

The gross area of the proposed Planned Development District site is approximately 11.53+/- +/- acres. Of that gross total, approximately 7.47+/- acres are considered developable land after all required deductions are accounted.

Therefore, the 5-acre minimum land area requirement is met.

Yard Dimensions. Zoning Law §128-40 H requires a minimum 50-foot setback along the perimeter of the PDD, except as may otherwise be determined by the Town Board.

The project will adhere to the 50-foot perimeter setback. In addition, the 50-foot buffer along the western boundary where it abuts the rear yards of the properties along Beverly Drive will be enhanced with an 8 – 10 foot high berm planted with 6-8 foot high evergreen trees.

Front Yard. Part (i) of this provision requires that the front yard distance to a building be no less than 35 feet from the right-of-way, or 60 feet from the centerline of the roadway on which the building fronts, whichever criterion results in the greatest setback.

As designed, all residential condominium units would meet or exceed these criteria.

All internal roads will be owned and maintained by the condominium association.

Building Height. This provision limits the height of buildings in a PDD to not more than 40 feet.

All buildings proposed for this project will comply with this restriction.

Access and Egress. The site provides access to Russell Road, a County owned and maintained roadway. Both driveways will directly access Russell Road. There will be no vehicular access onto Krumkill Road.

Off-street Parking. This provision establishes certain requirements for off-street parking that pertain to parking lot aisle widths, front yard parking setbacks, and screening in areas adjacent to residential districts.

A total of 131 parking spaces are proposed for the site. All residential parking will be accommodated with a combination of attached garages and surface parking spaces.

Maximum Dwelling Unit Density. This provision establishes maximum density ratios for residences in a PDD. For attached single-family, two-family, three-family, four-family and multifamily dwelling units, the limit is set at 8 dwelling units per acre.

Section 128-40 (B)(3) of the Zoning Code, entitled Intensity of Land Use, gives the Town Board the authority to establish actual maximum density limits in each individual case when approving PDDs, provided that in no case shall the density exceed the limits established by Section 128-40 (H) of the Code.

Section 128-40 (H)(1) defines the acreage to be used for calculating such density. The following information is provided for the benefit of the Town Board in making its determination in this regard.

- Total gross acreage of the parcel for which the Applicant requests establishment of a PDD is 11.53+/- acres.
- Estimated constrained land of the parcel, based on the definition of this term contained in Section 128-22 of the Zoning Code, is 4.06+/- acres. This includes 3.71+/- acres of wetlands, 0.23 acres of steep slopes, and 0.12 acres of easement/row area.
- The total estimated unconstrained land area is 7.47+/- acres.
- Estimated dwelling unit density, assuming up to 52 dwelling units as shown on the plans submitted with this Application for a PDD is approximately 6.96 units per net acre. This number is below the maximum 8 dwelling units per acre allowed for attached single-family, two family, three family, four family and multifamily dwelling units in a Planned Development District, per Section 128-40 (H)(7).

As a condition of approval, the Board hereby finds that the density of 6.96 units per acre is appropriate for the site. It is further recognized that during the site plan review process, site conditions may require an adjustment in the total number of units but in no case shall the number of units exceed 52.

C. Consistency with Surrounding Land Uses

All lands abutting the site are within the Residential A District and consist of single family residences, houses of worship, Elmwood Park Fire House, and the North Bethlehem Town Park.

The existing character of the area will not be changed due to the establishment of the condominium units since the homes reflect a different style of a residential dwelling unit in an area with a diversity of land uses.

D. Site Related Impacts

Impact on Land. The Blessings Corner project will be concentrated on approximately 7.47+/- acres of unconstrained land on a total lot area of 11.53+/- acres. Once construction is complete, approximately 75.08% of the site will remain as green space area. Areas containing environmental constraints, such as wetlands, and stream channels, will be protected and will not be impacted as part of this project.

Impact on Water/Wetlands. There are no State (NYSDEC) jurisdictional wetlands on the site. A Wetland Delineation Report, dated June 30, 2007 was prepared by Copeland Environmental, LLC. Based on a US Army Corps of Engineers (ACOE) jurisdictional determination letter, dated May 29, 2009, there are 4.07 acres of ACOE jurisdictional wetlands, 0.03 acres of isolated wetlands, and 1,232 linear feet of stream channel. The wetlands and stream channel will be protected and not impacted by this project.

Impact on Stormwater. The existing drainage pattern and discharge points will be retained. During the site plan review process, a full Storm Water Pollution Protection Plan (SWPPP) will be required per the requirements included in the NYS Department of Environmental Conservation SPEDED General Permit for Stormwater Discharges. The proposed stormwater management system for the project will be designed to meet both Town and NYSDEC standards. The requirements of NYSDEC General Permit (GP#0-10-001) would not allow any increase in stormwater discharges to any stream course for any storm between a 1 year frequency and a 100 year frequency.

Final stormwater layout and scope will be determined during site plan review.

Impact on Air. The Blessings Corner project will have no impacts on the quality of air once construction is complete. During construction operations, the project will be subject to the normal dust and mud problems associated with such construction work. In that regard, all standard practices will be used to contain and minimize airborne emissions on the site.

Impact on Plants and Animals. A Endangered Species Assessment, dated June 11, 2009 was prepared by Copeland Environmental, LLC which found that the Blessings Corner site has no record of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats, on or in the immediate vicinity of the site.

Impact on Agricultural Land Resources. The Blessings Corner project will be constructed on dormant agricultural land with areas of successional field, deciduous hardwood forests and wetlands. The site has lawn areas, a residential home, and several vacant outbuildings.

Impact on Aesthetic Resources. The Blessings Corner project will maintain existing trees where possible, and provide landscaping around new buildings and supplement existing natural buffers with additional landscape improvements. The applicant proposes to construct a 10 foot high berm and plant 7 to 8 foot high evergreens along the western boundary of the property where it abuts residential properties. Overall, 75.08%+/- of the site will remain as green area.

Impact on Historic and Archaeological Resources. A Phase 1 Cultural Resources Survey, dated June 2009 was prepared by Columbia Heritage Ltd. A letter from the New York State Office of Parks, Recreation and Historic Preservation, dated August 27, 2009, found that there were no archaeological sites found on the site and had no further concerns. The letter did note that the church at 361 Krumkill Road and the residence at 382 Krumkill Road were eligible for listing in the National Register of Historic Places (NR). However, the letter noted that the project will have "No Adverse Impact" provided that landscape screening is provided to limit views from the NR-eligible properties.

Impact on Open Spaces and Recreation. The Blessings Corner project will minimize its impacts on existing open space in that approximately 75.08% will remain as open space, 4.07 acres of ACOE jurisdictional wetlands, and 1,232 linear feet of stream channel will be protected as part of this project and will maintain existing trees where possible, and provide landscaping around new buildings and supplement existing natural buffers with additional landscape improvements.

Impact on Critical Environmental Areas. The Blessings Corner project will not impact any critical environmental areas (CEA) established pursuant to subdivision 6 NYCRR 617.14(g).

Impact on Transportation. A Traffic Evaluation Impact Study, dated February 9, 2009 was prepared by Creighton Manning Engineering, LLP. This traffic study considered the potential traffic impacts of 44 residential condominium dwelling units as well as a previously proposed convenience store and gas service which has been eliminated from the project and is not part of this approval. The Traffic Study concluded that the level of service at the Russell/Krumkill Road intersection would operate at a Level of Service D or better during both the AM and PM peak periods and that all site driveways are expected to operate at a Level of Service C or better. The report recommended that no level of service improvements are necessary as a result of the proposed project. The project is located on County Route 204 (Russell Road and Krumkill Road) and therefore, the County of Albany - Department of Public Works has approval authority over the location of proposed site driveways. Albany County reviewed the Traffic Evaluation Impact Study which at the time included the proposed convenience store and gas pumps. In a letter dated November 11, 2009, Albany County approved a full driveway access on Russell Road and a rights-only driveway on Krumkill Road. Subsequent to the revision eliminating the convenience store and gas pumps, and eliminating the driveway access on Krumkill Road, Albany County – Department of Public Works, in a letter dated February 22, 2010 found the revised plan acceptable and that the traffic generation would be lower than the previous proposal.

Impact on Energy. The 52 new units will require additional energy demands from National Grid typical of residential housing units. Electric service and gas mains exist in the area. All on site electric utilities will be placed underground as determined by National Grid in accordance with public service commission rules.

Noise and Odor Impacts. When completed, the Blessings Corner project will not produce objectionable odors,

noise, or vibrations. During construction, the normal sounds associated with such work will be heard at locations near the site during normal working hours. The project will adhere to the Town's Local Law 5-2009, Noise Abatement and Containment Ordinance.

Impact on Public Health. The Blessings Corner project will have no adverse impacts on public health and safety.

Impact on Town's Infrastructure (Water & Sanitary). The Town of Bethlehem maintains a gravity sanitary sewer collection system that traverses through the site to a pump station on Russell Road that ultimately ties into the Delaware Avenue pump station. In accordance with the North Bethlehem/Slingerlands Sewer Study, dated April 2007, prepared by Barton & Loguidice, P.C., mitigation fees for capacity improvements at the Delaware Avenue pump station will be required to include this development at this station since the station does not have adequate reserve capacity.

A 10" water main is located within the Russell Road right-of-way and adequate capacity exists to provide service to the proposed project.

The anticipated average daily demand for both water use and wastewater for this project is 7, 280+/- gpd.

Impact on Growth and Character of Community or Neighborhood. The Blessings Corner project will comply with the regulations for a Planned Development District as set forth in Section 128-40 of the Town of Bethlehem Zoning Law. All lands abutting the site consist of single family residences, houses of worship, Elmwood Park Fire House, and the North Bethlehem Town Park.

The existing character of the area will not be changed due to the establishment of the condominium units since the homes reflect a different style of a residential dwelling unit in an area with a diversity of land uses and contributes to the diversity of housing options as envisioned in the Town of Bethlehem Comprehensive Plan. It is noted that the previously proposed convenience store and gas service has been eliminated from the project and is not part of this approval.

NOW, THEREFORE, BE IT RESOLVED,

The Town Board has reviewed the PDD application for Blessings Corner and the recommendation of the Planning Board; and has determined that the proposed PDD is consistent with the Town's Comprehensive Plan and meets all the criteria set forth for the establishment of a PDD in § 128-40 of the Town of Bethlehem Zoning Law.

On a motion by Councilman Jordan, seconded by Councilman Kotary, and by a vote of 4 for, 1 against, 0 absent, this RESOLUTION was adopted on June 23, 2010.

Note: In accordance with Section 128-40 (D) of the Town Zoning Code, approval of this Planned Development District (PDD) allows the Applicant to apply for site plan approval from the Town of Bethlehem Planning Board. The Planning Board shall not approve any site plan within this Planned Development District unless said Board finds that the site plan is in substantial conformance with the plan that served as a basis for the zone change to PDD. Further, all conditions imposed by the Town Board in granting the zoning change to PDD, including those the performance of which are conditions precedent to the issuance of any site plan approval, shall run with the land and shall not lapse or be waived as a result of any subsequent change in the tenancy or ownership of any or all of the area.

A motion to approve the Reservation of Public Parkland/ Fee Requirement for Blessings Corner was offered by Councilwoman Dawson, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary
NAYES: none
ABSENT: none

Councilman Hennessey wanted to know the fee. Mr. Morelli said it varies with the type of units. Councilman Jordan had done the calculations and the fee was about \$50,800. Mr. Morelli said that would be paid at the time of the building permit. The money is used for park enhancements or purchase but not for maintenance. Councilman Hennessey asked if the money could be identified for that part of Town. He thought the people being impacted should have the benefit of the fee. The legalities of marking fees for a particular section of Town would have to be investigated.

Resolution #26

**TOWN BOARD
TOWN OF BETHLEHEM**

**RESOLUTION
RESERVATION OF PUBLIC PARKLAND / FEE REQUIREMENT**

**BLESSINGS CORNER
572 RUSSELL ROAD
PLANNED DEVELOPMENT DISTRICT**

WHEREAS, the Town Board of the Town of Bethlehem has received an application under the Town's Planned Development District (PDD) regulations §128-40 from Russell Road Partners to allow for the construction of up to 52 residential condominium dwelling units and,

WHEREAS, §128-40(C) of the Code of the Town of Bethlehem provides the Town Board with the authority to review and approve Planned Development District applications; and,

WHEREAS, Local Law No. 7 of 2001 of the Town of Bethlehem adopted by the Town Board on June 13, 2001 and §128-57 of the Town Code authorize the Town Board to require the reservation of land for public park, playground, or recreation purposes, or the payment of a fee in lieu of parkland, as a condition of planned residential developments; and,

WHEREAS, said Local Law was adopted by the Town Board after careful consideration of the impacts that new residential development is having on the Town's park and recreation facilities, as outlined in a memorandum from the Town Planning Department dated May 15, 2001; and,

WHEREAS, the Town Board has considered the project site and its potential for accommodating a public park site for active recreation use; and,

NOW, THEREFORE, BE IT RESOLVED,

that the Town Board hereby finds that the proposed Blessings Corner project presents a proper case for the requirement of public parkland, but that a suitable park of adequate size for active recreation use, which meets the criteria outlined in Local Law No. 7 of 2001 and §128-57 of the Code of the Town of Bethlehem, cannot be properly located on the parcel and that the Town Board of the Town of Bethlehem hereby requires that a fee be paid in lieu of parkland reservation for the proposed development of up to 52 residential dwelling units, the amount and payment of which shall be made in accordance with Local Law No. 7 of 2001 and §128-57 of the Code of the Town of Bethlehem.

On a motion by Councilwoman Dawson, seconded by Councilman Kotary and a vote of 5 for and 0 against, and 0 absent, this RESOLUTION was adopted on June 23, 2010.

A motion to approve a Local Law amending the Code of the Town of Bethlehem, Section 128-13 Zoning Map, Town of Bethlehem, to include Blessing Corners PDD was offered by Councilman Jordan, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Jordan, Councilman Kotary

NAYES: Councilman Hennessey

ABSENT: none

REQUEST FROM THE DIRECTOR OF MIS TO ACCEPT A DONATION FROM BETHELEHEM SENIOR PROJECTS INC. FOR THE PURCHASE OF TWO NEW LAPTOPS TO BE USED BY THE SENIOR SERVICES DEPARTMENT OUTREACH WORKERS-----

A motion to accept the donation from Bethlehem Senior Projects Inc. was offered by Councilwoman Dawson, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary

NAYES: none

ABSENT: none

REQUEST FROM THE SUPERVISOR TO ACCEPT AN ANONYMOUS DONATION IN THE AMOUNT OF \$200 FOR THE PURPOSE OF SUPPORTING INTERNET ACCESS FOR TOWN BOARD MEETINGS AND TO REPAIR THE LIGHTING FOR THE ELM AVENUE TENNIS COURTS-----

Supervisor Messina said the donor wanted to remain anonymous and wanted the money split between providing WEB based access to Town Board meetings and lighting for the tennis courts.

A motion to accept the \$200 donation was offered by Councilman Kotary, seconded by Councilwoman Dawson and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Jordan, Councilman Kotary
NAYES: Councilman Hennessey
ABSENT: none

Discussion: The total amount of money that has been donated to the WEB access and the lights is now \$100 for the lights and \$400 for the WEB access. Councilman Hennessey asked the public not to donate anymore money because the Town Board has not decided how these issues will be dealt with. He was concerned that the town was accepting money for things that the Town Board has not made a policy decision. He is happy that people are willing to support Town operations but he will not vote for the acceptance of the donation. Supervisor Messina didn't want to advocate Board policy to discourage people from donating when they want to. He would like to be able to send the checks back when the Board comes to a decision on both these issues. Councilwoman Dawson felt the same way as Councilman Hennessey as was uncomfortable with accepting donations. The idea of holding money until a decision was made and then returning the checks was why she had voted to accept the last donation. She said accepting the money was not an assumption that the expense will be incurred. Councilman Hennessey suggested accepting the check but not cashing it until the policy had been decided. Mr. Potter said checks did have expiration dates. Ms. Traylor suggested depositing the checks, holding it and then returning the money. Councilman Kotary said the Town accepts donations for many programs but understood that this was an acceptance of money on an issue that has not been finalized.

ACKNOWLEDGE RECEIPT OF A PROPOSAL FROM EPERGY, LLC FOR A SOLAR PHOTOVOLTAIC SYSTEM TO SUPPORT ELM AVENUE PARK TENNIS COURT LIGHTING AND RECOMMENDATIONS FROM THE DEPUTY COMMISSIONER OF PUBLIC WORKS REGARDING THE PROPOSAL-----

The Board had been given a packet of information showing the cost of the solar system would be about \$130,000 net after some items were offset by grant savings and a payback period of about thirty (30) years. Mr. Deyoe's recommendation was that the solar system was not feasible and he supported Ms. Lanahan's original request to fix the lights on the tennis courts. The total cost would be somewhere around \$13,000.

A motion to accept the recommendation of the Deputy Commissioner of Public Works and move ahead with the proposal to fix the lights was offered by Councilwoman Dawson, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary
NAYES: none
ABSENT: none

Councilman Hennessey was glad that the solar alternative was looked into even if the Town had to go with the standard fix because it was less expensive. Councilman Jordan asked if stand alone solar lights were investigated because he hadn't seen it in the proposal. Mr. Deyoe said the wattage of the lamps and the output needed from the stand alone lights, it would be cost prohibitive. The area would 75 foot candles of light at ground level. Mr. Deyoe said they will continue to look for opportunities to use alternative energy when possible. Councilman Jordan asked if the funds to fix the lights would come out of the capital reserve for recreation. Mr. Deyoe said Ms. Lanahan had suggested not using the funds for one mower in the budget and using those funds for the fixing of the lights. Supervisor Messina reminded the Board that solar panels would be going up on the park building with the help of grant that Mr. Deyoe helped secure. There was also a significant amount of federal money available for that project. Councilwoman Dawson asked if there was a way to get lighting for the volleyball courts. One of the options was the portable lights for different sports during different seasons.

NEW BUSINESS-----

Councilman Hennessey said he has been working with the Supervisor on the new draft for the policy on the release of agenda items. He felt the feedback from the public has produced a better document. This should be completed soon. Councilman Kotary said he has been working with the Comptroller on revisions and clarifications to the procurement policy. He would be sharing future drafts of that document with the Board and the public.

PUBLIC COMMENT ON NON-AGENDA ITEMS-----

Marie Capone – Asked for the names of the part time people hired in the senior office and if they were civil service.

Donald Hinsdale – 14 Glendale Avenue – He spoke in April about a development on Winding Rd. Thanked the officials for listening to the residents. He is not accusing the developer of anything illegal but still questions the wisdom of cutting down all trees on the lots on Winding Road. They have since put in some bushes and a small tree. The trees were sold for lumber so they couldn't have been diseased like the developer said they were. There were exotic trees planted on the property. The developer is doing the same thing on other lots. He wanted these things looked at: clear cutting of lots, size and style of house to blend in with neighborhood houses, increase setbacks, yard sizes, notify neighbors before any approvals of any board by the Town and developer, more trees to be planted on new lots, Town should buy up vacant lots to prevent development. He doesn't want houses built in the gully on Winding Rd. but on the hill instead and the Town should ask for the same thing. He offered \$100,000 to the developer for the gully/ravine.

Supervisor Messina said the Town is working on an update to the zoning code and some of the issues mentioned by Mr. Hinsdale would be taken into consideration during the review process.

Councilman Hennessey saw a property on Kenwood Avenue today where clear cutting had occurred. He thought replacement of trees is something that should be looked at.

Joan Shack – Thought there was enough diversity in her neighborhood. Some diversity is starting to encroach on each other. She said the PDD approved tonight will put a lot of people in a small area. She supported keeping the green areas.

Steve Peterson – 47 Beacon Rd. He said Sam, Kyle and Mark will be playing on the same team on July 4, 2010 with 1864 rules.

Bob Jasinski – Beacon Rd. – He cautioned the Board on passing laws about the clearing of land or the requirement to replace trees. The laws that would fit in a well populated area might not work in the southern tier of Town. He was afraid it might hurt land owners.

PUBLIC ANNOUNCEMENTS -----

A motion to adjourn was offered by Councilman Hennessey, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary
NOES: none
ABSENT: none

The meeting closed at 8:35 PM.

Nanci Moquin
Town Clerk