

Town Board

May 26, 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.

There was a moment of silence in memory of two (2) residents that recently lost their lives, Jay Gallagher and Eric Hallenback, an employee who lost his son in a car accident.

Supervisor Messina said the order of the agenda items would be adjusted for staff.

PUBLIC COMMENT ON AGENDA ITEMS-----

Marie Capone – She asked if Joyce Becker would continue to drive the bus in seniors as she had always done once she was Acting Director of the Senior Department.

Jack Cunningham, 19 Woodridge Rd. – He wanted to make some comments on Town finances. Sam Messina had promised to reduce the 2010 budget between 4 to 10 percent. To date nothing has been done. Supervisor Messina released a statement that he decided to spend taxpayer dollars to broadcast Town Board meetings live on the internet. The Board never approved this decision. He didn't think this type of service made sense in a town where no one lived further than 10 miles from Town Hall. It didn't give any additional access to Town government, just an added expense. Supervisor Messina also scheduled a day long facilitated session for department heads, again at tax payer expense. The decision was made outside of the budget process. There are other issues that face this Town; the parapet wall on Town Hall needs to be repaired, the Kenwood water tower needs to be repaired or replace and the Vly Creek water plant needs to be replaced. The waste water treatment plant needs upgrades as do the buildings in the Town Park and on Adams St. need improvements. Tax payer dollars should not be wasted on non-essential items in this tough economic climate. Municipalities across the country are cutting budgets to make sure they can continue to supply essential services. He strongly opposes these ideas and thought it was the fiduciary responsibility of the Town Board to reign in this type of spending. Supervisor Messina said he would not respond at this forum.

Marie Capone – She said Jack took money and had a sidewalk built on Feura Bush Rd. No one ever walks on it. There is a walking bridge and no one walks on it. We had to pay for it.

Darlene Jerry, Andover Rd. As a voter and tax payer she asked that the Town not approve the zone change for Russell Rd., Blessings Corners. She said the Planning Board was given information concerning Krumkill Creek and impact on that creek and culvert that no one in this Town will address. She said there were petitions from residents that did not want this zoning change, with or without the Stewarts. She felt that politicians were out of touch with their constituents. If they were in touch, they would not allow this zoning change to happen. They asked them to build homes and provide green spaces.

PUBLIC HEARING – BLESSING CORNER APPLICATION TO CREATE A PLANNED DEVELOPMENT DISTRICT-----

A motion to waive the reading of the call of the hearing and indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes 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

NOTICE OF PUBLIC HEARING
TOWN OF BETHLEHEM

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Town Board of the Town of Bethlehem on the 26th day of May 2010 at 6:00 p.m. to consider a proposed Local Law Amending Chapter 128, Zoning Map of the Town of Bethlehem, New York of the Code of the Town of Bethlehem, for the rezoning of 572 Russell Road from Residential A zoning, to a Planned Development District.

All interested persons and citizens will have an opportunity to be heard at the said hearing.

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who are in need of assistance in order to participate should contact the Town Clerk at 439-4955, Ext. 1183. Advanced notice is requested.

BY ORDER OF THE TOWN BOARD
TOWN OF BETHLEHEM

Nanci Moquin
Town Clerk

NANCI MOQUIN, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and the attached Legal Notice was published in the Town's legal newspaper, The Spotlight, on May 12, 2010 and that I posted the Notice of Public Hearing on May 12, 2010 on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

Nanci Moquin
Town Clerk

Sworn to before me this
13th day of May, 2010.
/s/ Julie Sagendorph

Notary Public

A motion to open the public hearing was offered by Councilwoman Dawson, seconded by Councilman Hennessey and approved with the following vote:

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

NAYES: none

ABSENT: none

The public hearing opened at 6:10pm.

PUBLIC HEARING – Blessing corner.

Daniel Hershberg, PE presented for the applicant. He supplied the Board with written documentation. The original proposal included a Stewart's store which has been eliminated. The site is on the corner of the Blessing Road and Russell Rd. and the site is split by wetlands. There will be 8 unit and 4 unit condominiums buildings for a total of 52 units with parking. He showed a view of what the units would look like when it's first built. Each unit will have its own laundry. Albany County Public Works sent a letter stating that the site meets all the traffic needs of the county. As far as the number of students it should be .13 per unit which comes to be about 7 students for the whole site. He said they have some numbers and figure that the Town of Bethlehem would earn \$46,000 on the property. There won't be any cost to the Town for maintaining roads and stormwater facilities because they would be privately owned. The difference between the cost benefit to the Town of the project as is and regular subdivision would be about \$34,000. The Town of Guilderland cost per student is about \$10,000 and with the school taxes it would have a positive impact on that school district of about \$58,000. He said the comprehensive plan spoke to alternative housing and this project satisfies that need. Family households are reducing thereby reducing the need for single family homes. There is a greater need for alternative housing. The market analysis bears this out. The location of the project will have a variety of areas to pull from for potential buyers.

Councilman Hennessey asked if the projected number of students was incorrect, the cost benefit for the school district would go away. If there was one student per household, that would be a half a million dollars. Mr. Hershberg said there weren't any statistics that would assume that amount of students. He said he could document that this type of housing would have even less children. He said the average

single family homes have .7 children. Councilman Hennessey asked him to respond to Darlene Jerry's concerns. Mr. Hershberg said this project falls under a SPEDES permit that requires that the project produce no more water on the site than it does today. It will not increase water flow into the Krumkill. He thought the problem in the Krumkill was the disposition of rocks and the ability of the water to flow. She had a concern with is about a mile and one half down the road.

Ms. Jerry: I don't believe it, I wish my husband were here because he did all the work on it and Mr. Messina knows about it. The culvert on Krumkill Road is undersized. That culvert has been there for a hundred years, I'm sixty years old, that culvert's been there since I was a kid. I've tried to get the Town of Bethlehem to address that. Encon has said it has eroded on each side of the culvert and we can't get the Town to address it. They want to do all this stuff upstream and they want to build all these homes and everything, this stream is covered under the federal wetlands. It's protected, the Krumkill Creek and nobody cares and nobody wants to do anything. But yet they want to build, they want to build Blessings Corners and all this water is coming downstream. I wish my husband were here because he's the one who has all the information. Mr. Messina has the information, Mr. Carvajal has the information, the City of Albany has the information so don't tell me that. There is going to be problems and nobody will address it so what's going to happen once he puts this thing in. What's going to happen, that's my concern.

Councilman Kotary: Just so I'm clear, you sent something to the Town Supervisor. Have you heard back?

Ms. Jerry: I did and my husband spoke with Mr. Carvajal, he knows there is problem there, my husband got information from Encon, and wrote it in a letter that said the culvert is undersized and should be replaced. We can't get the Town to do anything. My husband tried for four (4) months to get these people to do stuff and they won't do anything. They ignore it, then this stuff comes up and so where does it all go. So you allow him and you allow somebody else and you don't address a stream that's protected by the federal environmental, DEC, it's protected water. It's a trout bearing stream and is to be brought back to where it was years ago.

Councilman Hennessey: So can we get some disposition on this. You've been dealing with this..

Supervisor Messina: Excuse me Mark, this is s public hearing for the public to provide testimony, that's what we should hear and that's what we should do is respond to all the comments.

Councilman Hennessey: This member of the public has come here tonight to talk to us about this issue and is requesting information and I think it is pertinent to the exploring of the issue of whether we should approve this or not.

Ms. Jerry: I can't explain it all because my husband's not here and he's the one who did all this work. Mr. Messina knows about it, he knows about it, you don't know about it cause I'm sure that no one has told you about it.

Councilman Hennessy: It's the first I've heard about it.

Supervisor Messina: This is a public hearing.

Ms. Jerry: He asked me to come up.

Councilman Jordan: Mr. Supervisor, can we just get an answer to her question, what if anything is going on with this situation. Do you have any information to impart?

Supervisor Messina: Gentleman and lady, this is covered, even in the Spotlight, quite extensively. There was a lot of information out there about this particular culvert. It's been going on for years and in terms of who has the responsibility and we have been engaging with other organizations to see what grants are available and what can be done. I'm on record saying this is not primarily a Bethlehem responsibility to solve. The purpose here is not to get into a debate about a cul-de-sac, the purpose here is to listen to all public testimony on this issue and then carefully consider it which we have done and then respond. That is what I would like to do.

Councilman Hennessey: I understand what you're saying, but there is a member of the public here tonight asking for clarification on this issue. I understand you may have gone on record about this in the past but can we just get some clarification to the issue she's presenting here tonight. Because I think it impacts our decision on what direction we're going to go in on this project. At least from my perspective it does. I can't speak for the rest of the Board.

Ms. Jerry: Can I say something? When you have to address this creek issue, even though they don't want to do anything, except you guys cause obviously you don't know nothing about it. It was in the Spotlight but the thing is, my husband has been working on this for four (4) months and you know not

one person has called him back with any information from this Town, not one person here. I wish he was here, I don't know if you want him to tell you what the streams about.

Supervisor Messina: I don't want my staff responding to this issue at this time.

Councilman Kotary: At the very least, Sam, I think we should respond to her letter. We should have already done so. Hopefully the Supervisor can do that for you at least respond to your letter.

Ms. Jerry: It would be nice if someone would call my husband and let him know.

Marie Capone: I said it many times, under the republican administration the builder had to pay for his sidewalk, had to pay for his sewers and had to pay for his water.

Jim Martley, 5 Blessing Rd.: Good evening members of the Town Board, my name is Jim Martley and I have lived at 5 Blessing Road for almost 20 years. First I want to thank you for this opportunity to express my opinion & feelings on this purposed project. I was first made aware of this project last August. At that time there was a Stewart's Store attached to it. I and a couple of my neighbors made it our mission to inform all of our neighbors of what was being purposed for our neighborhood. There was a meeting hosted by Hershberg & Hershberg, Stewart's representatives and the Applicants of this project at the North Bethlehem Firehouse on November 11, 2009 and during that meeting someone from the audience asked if the Stewart's had to be part of this project. We were told by Dan Hershberg, and this is a quote, this is a package deal, without the Stewart's we cannot afford to progress with the building of the condos. With this information in had we proceeded to go door to door asking our neighbors within a ½ mile radius of the project what they thought. An overwhelming majority were against the Stewart's due to traffic increases, the environmental & social problems that follow a business of this nature and also against the rezoning of the property to allow t he condos to be built. We presented these opinions to the Planning Board during a Public Hearing on Feb. 2, 2010 along with a petition with 142 signatures from our neighbors along with about 20 people getting up and personally expressing their opinion. At that time, the representatives from Stewart's finally heard loud and clear what we wanted as a neighborhood and gracefully bowed out of the project. I want to publicly thank Stewart's for proving that they mean what they say when they said that they want to be good neighbors. At that time I personally and publicly stated that I was in favor of the condo project and didn't see any problem with it. Just recently I was made aware of some of the ramifications of the purposed zoning change from residential to a planned development district, the property can be used for commercial/residential purposes such as another Stewart's type of business. I was assured that if would be a very public and drawn-out process to change the language of the present agreement for the usage of the land but just the fact that it can be changed bothers the hell out of me. I have spent the better part of a year of my life worrying and fighting this project due to the negative impact it will have on my property value and the quality of my life and everyone of my neighbor's lives and I don't want to have to constantly be checking the agenda of both the Planning Board or the Town Board for mentions of this project for the rest of my life, no offence intended but I want to get back to my own business and keeping my nose out of someone else's business. In closing, I would ask that the Town Board reject the purposed rezoning and ask the applicant, the Planning Board and the Zoning Board to come up with a different designation for the Blessings Corner condo project that would forever exclude the usage of this property for commercial/retail use. I have a copy of the petitions to hand in to the Town Clerk.

Mr. Zee: I live at Stafford's Crossings, right around the corner from this. I know I'm in the minority but I'm in favor of the project. People might know me, I'm an attorney and I do a lot of real estate development but I'm not involved with this project, so I have no interest in it what-so-ever. However I have been involved in a lot of condominium projects. I've done the offerings and approvals for a number and I have to confirm the representations made by Dan Hershberg in doing the condominiums projects. In the majority of projects, the number of school age children are really diminimus. The ratios are quite incredible. I've had projects throughout the capital district where the school districts where the projects were built actually came back to my clients and said could you build another project because we make so much money off the condominiums. That in regard to the other data that Dan has submitted, that's my real world experience in coming before boards because that's what they always ask, forget about what the rest of the United States shows, what does the capital district show. I have to say that Dan's numbers are fairly conservative. I do believe that we need this diversity of housing type especially new condominiums. I know that Delmar has had some of the earliest condos built in the capital district but I think we need some new upscale housing in this area. I believe this would be creating a traffic issue for that corridor. I think this gentleman had concerns with the PDD allowing commercial. I think per the Town Zoning Law if a PDD is adopted it would be for a specific use only. The specific use would be for no more that 52 condo units. I think that's the only way you could control a project like this because if you rezoned for multi-family then they could anything with it. Whereas, if you put in a PDD you have greater restrictions and would preclude commercial development on that property unless there's another rezone. As to the issue in regards to stormwater management, I'm not an engineer but I do know that this Town and it's staff is very experienced in analyzing storm water management when it reviews a project. If you grant the approval here tonight, obviously it still has to go back to the Planning Board for detailed

site plan review. In there they have to look at storm water management which is one of the major issues which DEC reviews as well as the Town engineers. I'm comfortable living in that area that those issues will be properly addressed in due time. Right now probably all the detailed engineering has not been completed so there has to be further analysis but you don't spend the money to do that until the PDD is approved. It is my understanding just because you approve 52 units under the zoning, you can build no more than 52, it might be less depending on what the engineering details show. I'm in favor of the project, I think we need that type of housing and I have no objection for that type of housing in that neighborhood. In reality I think it would be very difficult to market and sell 11 single family homes on that property, given the constraints, given the location. I think from a good planning standpoint, you don't really want to have single family homes immediately across the street from a firehouse, which is a fairly active firehouse. Not only because of the number of members there and because of the activities and also sometimes multi-families really are a better type of use adjacent to Town Park. Thank you.

Joan Shaft, 4 Beverly Drive. The back side of Beverly drive is where the condominium project will be constructed. So myself and all my neighbors are affected there. I have express concern with the rezoning. Maybe I don't really know what the rezoning means, maybe clarification needs to be made exactly what these rezoning designations allow or don't allow especially in the future. I think that people who have bought into this community and to the area and into my neighborhood trusted and had faith in the fact that when we bought into this township that we consider it family and residential. We weren't looking to open it to a commercial enterprise. I think that the Town has a responsibility to the residents that now exist and whether that's the time, energy and commitment to their neighborhood to make sure that's not disrupted. My feeling is that they have bought this property, they are the owners and entitled to construction and to making whatever reasonable investments that they need. However they did buy it understanding that it was zoned single family. So I have some understanding of the position of Hershberg's but I also know that they knew what they were getting into. I feel that it should stay zoned as it is to open the door just allows for future problems or considerations of this type and it affects the community, it affects the neighborhoods. It will change the very nature and tenure and I would like to see it preserved that's why I bought into it 11 years ago and why I'm still a resident here. If you give this your due consideration for all the points that are being expressed we very much appreciate that.

Vince Alteri, 21 Pine St. – I've lived there my entire life. I'm in favor for this project. The majority of the people who are not in favor are from an older crowd. I'm part of an up and coming part of society that understands improvement needs to happen. We have nanotech jobs that are coming and there's no room. I think it's a good idea because we have all these job opportunities coming and we need a place to put these people. The people who disapprove are pretty much set in their old ways. I think that it's a good idea and I would like to see improvement. Thank you.

Supervisor Messina: I'm 66 and I think I'm set in my old ways too.

Anthony DeThomasis, 5 Eastland Circle. The reason I came here tonight was I got a call from the developer saying there was going to be a public hearing on this and he also notified me because I know them. When the initial project was going in front of the Planning Board with the Stewarts and I was opposed to the Stewarts. I felt that the corner was absolutely the wrong corner for a gas station. Again it had nothing to do with Stewart's it was just about pumping gas. That was the wrong spot for it. At that time at that meeting I stated that I no opposition to the condos if they are allowed to do it under a planned development district, then I think they should be allowed to do it. As long as old of their criteria for development such as storm water management is met. I can say that I have been doing business with Hershberg for a number of years. We've had our problems and I've had disagreements with them, I'm in the construction real estate business. I never have known him to propose something that was wrong. They're probably one of the best engineering companies in the area that I have had the pleasure of dealing with. When they were going to do the Stewart's I took time out of my evening to come and voice my opposition to it, so I felt that I owed them the opportunity to come here tonight and say that I am not opposed to their development as it is right now. One of the things, I was talking to one of the owners in the back, and someone had mentioned the possibility of that at some future date they could come back under this planned development and go back to a commercial. Again I said I was opposed to that type of project going on that corner. I asked the question, would you be opposed to a deed restriction that would prevent under any circumstances. Maybe the Town could require them to put that in the deed so whatever is approved will be the only.... The owners even though they are the owners and they maintain their ownership, agree that they will not change that in the deed and it will remain a residential development.

Linda Jasinski – I think Mr. Zeh covered everything that I wanted to say. Certainly we have all the rules and regulations and the engineers looking at this, making sure it is a good development. At 1,200 square feet per unit, I can't imagine you would get a lot of kids in there. That was the size of my first house and it was tight with 2 people and a dog in there. People who make \$100,000 I'm sure are going to want to buy bigger houses when they start having their families. I think the number of kids will not be that far from what they suggest. But most important, this location is great to put in this type of development because we want to get people to come to Vista. We want start to get companies there. We've talked many years how we want people to live next to where they work, near where they work. This is near

Vista, Nano, Harriman Campus, this is a perfect place to get people.. 2 miles you can take your bicycle, you can walk to work. It is a residential project, I grew up in that area so that puts me back many years when those houses weren't there and I could tell you which houses were in the pond that we used to skate on when we were kids. Things have changed there. I would not want to see a deed restriction if the time comes up that they want to apply for something else, they would have go through all the planning and all the approvals and that kind of thing. But 20 years from now, 30 years from now people living there might be somewhere else, they're not there and the people living there should make up their mind if they want a gas station or maybe something they really want such as a hydrogen station or an electric charging station. So I wouldn't want to see a deed restriction for a future that we don't know about at this point. I think it's a great project and we need to get people working in this Town, construction going which is part of our economy getting back on foot and you have a developer that wants to do that.

Supervisor Messina: I'm going to call for a motion to close the Public Hearing but I'd like to say that the reason I didn't encourage dialogue both ways is because it's supposed to work that we get the public hearing and then we evaluate all these things, get staff involved, they're accessible to Board members as they need to be and should be and we look at all of these comments one by one and total. We're not acting on this tonight; we're just having a public hearing.

A motion to close the public hearing 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

The public hearing closed at 6:55pm.

Councilman Hennessey said a number of residents voiced their opinion both for and against this project. We all want to protect the character of our community and neighborhoods. These are important. He hopes to have further discussion and a full explanation of the issues that were raised. He thought there were issues that needed to be addressed and he wanted to discuss possible restrictions to address some concerns.

Supervisor Messina said all the issues raised will be addressed. This has gone through the Planning Board and had come before this Board in the past. This has been an ongoing process.

PUBLIC HEARING ON ENHANCEMENT OF COLD WAR VETERANS EXEMPTION

A motion to waive the reading of the call of the hearing and indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes and open the public hearing was offered by Councilman Kotary, seconded by Councilwoman Dawson and approved with the following vote:

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

NAYES: none

ABSENT: none

NOTICE OF PUBLIC HEARING TOWN OF BETHLEHEM

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Town Board of the Town of Bethlehem on the 26th day of May 2010 at 6:00 p.m. to consider a proposed Local Law Amending Chapter 111, Taxation of the Code of the Town of Bethlehem, to provide a tax exemption for Cold War veterans.

All interested persons and citizens will have an opportunity to be heard at the said hearing.

The Town of Bethlehem provides reasonable accommodations for the disabled. Individuals with disabilities who are in need of an accommodation in order to participate should contact the Town Clerk at 439-4955, Ext. 1183. Advanced notice is requested.

**BY ORDER OF THE TOWN BOARD
TOWN OF BETHLEHEM**

Nanci Moquin
Town Clerk

STATE OF NEW YORK) SS:
COUNTY OF ALBANY)

NANCI MOQUIN, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and the attached Legal Notice was published in the Town's legal newspaper, The Spotlight, on May 12, 2010 and that I posted the Notice of Public Hearing on May 12, 2010 on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

Nanci Moquin
Town Clerk

Sworn to before me this
13th day of May, 2010.
/s/ Julie Sagendorph
Notary Public

The public hearing opened at 6:55pm.

Councilman Hennessey and Councilman Kotary voiced their opinion in favor of the exemption.

Supervisor Messina said this Board and Boards in the past have always supported these types of exemptions.

Mr. Pittman 16 Aspion Rd. I'm in favor of this it will not affect me at all. I already have the max veterans exemptions I can get.

Robert Jasinski, Bender Ln. : I also totally support this. I believe it is a good thing, we're going to have veterans that are coming back and at least it shows them that the Town is always open to some form to honor our veterans. I do appreciate it, it's nice to see the Town Board is all in agreement. I do approve of this. I would appreciate it if you would give us the dates of when this would fall between. Myself, I'm a Korean War veteran but there are certain dates and the Cold War has a certain date too.

Supervisor Messina: I have a copy of the statute here but it will take a bit to go through it. I'll get those dates to you.

A motion to close the public hearing 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

The public hearing closed at 7:00pm.

The Board reviewed the draft Local Law Amending Chapter 111 prepared by staff.

A motion to approve the Local Law Amending Chapter 111, to include the Cold War Veterans exemption as written 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

ACKNOWLEDGE RECEIPT OF THE DRAFT ANNUAL REPORT FOR THE TOWN STORMWATER MANAGEMENT PROGRAM

The Board acknowledged receipt of the draft annual report for the Town's Stormwater Management Program.

PRESENTATION BY STORMWATER MANAGEMENT PROGRAM COORDINATOR ON DRAFT ANNUAL REPORT AND PROGRAM ACCOMPLISHMENTS.

Josh Carvajal presented. A copy of the report was sent to the Town Board members and a copy of the report was filed with the Town Clerk's office.

Mr. Carvajal said the annual report before the Board will be submitted to NYSDEC. It is a summary of what the Town has done over the past reporting year, March 2009 to March 2010. The Storm water Program has 6 minimum control measures; 1. Public Education and Outreach – education of the public on how to handle storm water done through brochures, going to schools and teaching the importance of clean drinking water, and our WEB site 2. Public Participation - such as community cleanup and hazardous waste recycling day and education of contractors 3. Illicit Discharge Detection and elimination – making sure that nothing but storm water goes into our system 4. Construction Site Runoff Control – any construction will have a grading plan that is reviewed and erosion sediment control plans and inspection of the site. 5. Post Construction Storm Water Management Practices – storm water ponds and wetlands that are privately owned are checked to make sure they are maintained correctly, and Town owned areas will be maintained by the highway department. 6. Pollution Prevention and Housekeeping – training staff in pollution prevention such as the stabilization of ditches. The Town is a member of the Stormwater Coalition of Albany County. All municipalities pay an annual fee and activities are coordinated by all the municipalities.

Councilman Kotary asked if we're meeting our deadlines, are we in compliance, how are we doing as far as the cost and where are we in relation to other communities. Mr. Carvajal said the MS4 permit was recently reissued. There aren't substantial changes other than more education of Town officials. Over the next five years the Boards will be learning about green infrastructure and other parts of the stormwater management system. This is a five year permit within that time frame we must finish mapping all of our outfalls, investigating those outfalls, it's an ongoing program. There had been a deadline for 2008 to get a program up and running, that has been met. It will be a continually program. The MS4 program is in the process of being amended to cover more areas. It is an unfunded mandate, there has been some grant money from NYSDEC for the first few years. The coalition has helped because funds are put towards getting minimum control measures completed without duplicating efforts in a cost effective manner. Councilman Kotary asked if there was a way to combine efforts with adjoining municipalities. Mr. Carvajal said Bethlehem's approach has been to charge the time reviewing stormwater construction measures to the developer or the home owner. Very few municipalities do that. It helps pay for the program. Only Albany, Colonie and Bethlehem have staff for the stormwater program. We have a really good program. Councilman Hennessey asked if the Town was doing anything to transition to a greener way of doing things. Mr. Carvajal said there currently isn't a requirement to use green infrastructure but they have been telling developers that the designing manual is changing to incorporate those elements; such as grass swales and porous pavement.

APPROVAL OF TOWN BOARD MINUTES FOR 5/12/10

A motion to approve the minutes of 5/12/10 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

NAYES: none

ABSENT: none

PRESENTATION BY THE COMPTROLLER OF THE DECEMBER 31, 2009 YEAR END FINANCIAL RESULTS AND THE APRIL 30, 2010 FINANCIAL RESULTS

Ms. Traylor said the auditors have not completed the audit for 2009. The numbers for the first quarter of this year will be presented at the next meeting. She said they had been pretty close with the prediction. Last summer about one million dollars had been cut from the budget because they knew the sales tax numbers would be short and they were. Spending was trimmed. The sale tax figures the Town received in January were about \$2,322, 000, about \$47,300 less than the first quarter of 2009. The mortgage tax was received for 2009 in January and that figure was \$687,000, which was \$212,00 higher than the modified budget. It helped make up some of the short fall in the sales tax revenue. The Parks Department revenue were down because of the wet season. In 2009 the Town did not fill vacant positions in many departments and helped save money and department heads were asked to not spend money. The end results were pretty good. There are four funds the Town focuses on; the general fund, the highway fund the water fund and the sewer fund. In the general fund shortfall was \$815,998 which was less than expected. The fund balance ended up at \$3,902,087. The highway fund ended up almost revenue and expense neutral. There was a shortfall of about \$16,900. That fund balance is about \$1,700,000. The water fund was expecting a loss and came in with a surplus of \$410,000. There were four vacancies in 2009 that were not filled and carefully watching of other purchases. The water fund balance was \$2,761,169. Her recommendation will be to transfer some of that to the capital reserve for the water. The sewer fund was expected to sustain a loss and it ended up with a surplus of \$780,927. That fund balance is now \$2,113,000 and she will recommend transfer of some of those funds for future capital improvements to sewers. Ms. Traylor showed the trends of the sales tax revenues. In 2008 the revenues from sales tax was \$10,095,823 and in 2009 it was \$9,305,251. The actual results in sale tax revenue from the first quarter of 2010 was \$2,322,000 and \$2,450,000 was budgeted. That is 2% less than a year ago and 5%

less than budgeted. Recent news seems to indicate that the sales tax revenue is trending upward. She did not think the 2% would be the same in the second half. The first quarter numbers of 2010 are not ready. She handed out the same information that Standards and Poors had been given when the Town was given a AA rating. It's useful for the Board to show them where they are today. She will be prepared to answer their questions on the information in two weeks.

Councilman Kotary said there were some things that concerned him in two areas. The first quarter shortfall was expected to be \$128,000 and extending that out of 4 quarters would be \$512,000. A one percent tax increase is about \$50,000. That's the equivalent of a 10% tax increase. It shows a significant decline in revenue. Because of the work holding the line on costs last year and limiting unfunded expenditures the numbers came in pretty close. He now had a concern because he thought they would have to do the same thing this year. He thought they would have to look at cuts, hiring freezes, reigning in spending and working closely with department heads to watch spending. He asked if there were any trend numbers that would indicate what the numbers might be come the third and fourth quarters. Ms. Traylor said she was concerned in April, however the news seems to be that the sales tax revenues are trending up. But we won't know for sure for awhile. We'll know in a few weeks. There are a lot of unknown factors. We have control over spending and taxes. By the time the budget workshops come around we'll have more information. Councilman Kotary asked if there were any outstanding grants that the state or federal government has not given us the money we expected. Ms. Traylor said the Town has received in excess of \$500,000 this year in federal money. She said last year a parcel of land was purchased next to the Henry Hudson Park with a grant and that money has not yet been received. Councilman Hennessey said people around Town are concerned with the economy. He asked at what point in the year would they need to make a decision about a budget modification as they did last year. He thought they would need the mid year numbers prior to the budget process. Ms. Traylor thought that budget discussions should start now but the public workshops would be in late summer. Retirement and health care costs are increasing and the Town has no control over those costs. Councilman Hennessey said most of the funds are evening out but the general fund showed a large loss. Ms. Traylor said the pension and the health care costs and loss of sales tax funds were the cause of that general fund loss. Ms. Trembley-Glassman said the new rates for health insurance and pension numbers come in November. Ms. Traylor said the increase in the pension will continue for five years. Supervisor Messina said the change in fund balance was at a reduced rate but he would be watching it. A policy was made to bond things that were previously operational expenses. He said it was in accordance with the comptrollers guidelines, recognized by the Association of Towns and sound fiscal policy. We will have track and trend those commitments also. He said there have been meetings on the capital needs of the Town. These could be significant especially the water and sewer. Councilwoman Dawson said because our reviews are so dependent on sales tax revenues and the County has not found an answer to their budget problems. It could hit us hard. She hoped that the Supervisor was talking to the county at every opportunity. Supervisor Messina said the town should become as financially sustainable as it can. The dependence on the revenues from the county is not something that can be depended on. Councilman Kotary asked if the public budget meetings were scheduled yet. They have not been scheduled at yet. Councilman Hennessey asked if there was a hiring freeze in place because the water fund showed such a surplus and it was partially because of not filling open positions. He thought there should be a hiring freeze put back in place. Supervisor Messina said he there wasn't anything in writing before so he started a system where a program director must justify the hire and then a decision will be made on the basis of how it affects the community. Councilman Hennessey said he had never heard of this before tonight. He said that sounded like a policy decision and he thought he should have come before the Board for consideration. Supervisor Messina said that was an operational decision that the supervisor had a responsibility and the authority to do institute. He said there wasn't any Board action on the last hiring freeze. Councilwoman Dawson said the agenda frequently had decisions for the Board on the hiring of certain individuals. She asked there be more of an advance other than the night before the person is to start work. It puts the Board in an awkward spot. She would like to see them submitted earlier in the process. So if there were questions they could be accommodated earlier in the process. She said these were different times. Councilman Kotary said the Board had the authority of hiring and firing. Ms. Trembley-Glassman said there were time constraints with certified lists from civil service. They have 30 days to certify a civil service hire. Councilwoman Dawson said they should start earlier in the process to decide whether a position should be filled. Councilman Hennessey agreed. Then they could go out to lists for specific people. Supervisor Messina said the budget was set up so pre-approved positions could be filled. Councilwoman Dawson said she wanted to be more proactive. Councilman Hennessey said last year Supervisor Messina wanted the Board to vote on a recruitment policy. Now a policy was put in place that the Board had never seen. Supervisor Messina had wanted positions posted on the WEB where it wasn't a civil service position. Councilman Hennessey thought policy decisions should be put before the Board. Councilman Kotary asked for copies of the policy and copies of the forms associated with hiring. He thought the Board should decide whether to fill positions. It wasn't about the process but it had to do with the finances. He thought it was good to be able to say when it was good time the hire and good time to wait. Supervisor Messina said the finances were challenging last year and the same this year but this is a change in responsibility between last year and this year as to the involvement of the Board in hiring. Councilwoman Dawson asked where this policy is left. Supervisor Messina asked for some time to think about this. Councilman Kotary didn't care about how things were

handled in the past because with the financial climate of today, it is the Board's responsibility to be involved in financial questions.

REQUEST FROM THE HUMAN RESOURCE MANAGER TO RECOGNIZE JOYCE BECKER AS ACTING DIRECTOR OF THE SENIOR SERVICES DEPARTMENT, TO PROVIDE AN EFFECTIVE TRANSITION WITH THE RETIREMENT OF SENIOR SERVICES DIRECTOR KAREN PELLETTIER

A motion to recognize Joyce Becker as Acting Director of the Senior Services Department was offered by Councilman Hennessey, seconded by Councilwoman Dawson and approved with the following vote:

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

NAYES: none

ABSENT: none

REQUEST FROM SENIOR PLANNER FOR APPROVAL OF PHILLIPIN KILL MANOR PLANNED DEVELOPMENT DISTRICT. BACKGROUND INFORMATION ON THE REQUEST WAS PROVIDED TO THE TOWN BOARD ON MAY 12, 2010.

This PDD has changed over the years and now is a combination of three (3) types of housing; estate type homes on Orchard St., conventional single family homes and twin town homes. There is also a large protected area along the Phillipin Kill that the client wants to deed over to Fiver Rivers with an access point along Fisher Blvd.

Councilman Kotary asked if the approval of this PDD was limited to what was presented in the project. Mr. Leslie said the approval is for up to 87 dwelling units. The PDD establishes the use. They couldn't come back with a commercial use in front of the Planning Board without coming before the Town Board for a change in the approved PDD. Councilman Kotary supported the PDD because of the open space and it is in line with the Comprehensive plan with its diversity of housing.

Supervisor Messina said this project has changed being sensitive to the neighborhood and following the Comprehensive Plan. He was in favor of the diversity of housing and the protected area along the Phillipin Kill.

The Board reviewed the draft Reservation of Public Parkland / Fee Requirement document prepared by staff.

A motion to approve the Reservation of Public Parkland / Fee Requirement 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

Resolution # 22

**TOWN BOARD
TOWN OF BETHLEHEM**

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

**PHILLIPIN KILL MANOR
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 William J. Cade to allow for the construction of up to 87 dwelling units (two units exist on the property); 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 Phillipin Kill Manor 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 87 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 May 26, 2010.

The Board reviewed the draft Approval of Planned Development District, Phillipin Kill Manor prepared by staff.

A motion to approve the Approval of Planned Development District, Phillipin Kill Manor 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

RESOLUTION NO. 23

TOWN BOARD OF THE TOWN OF BETHLEHEM

APPROVAL OF PLANNED DEVELOPMENT DISTRICT (PDD)

PHILLIPIN KILL MANOR Fisher Boulevard and Orchard Street 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 Phillipin Kill Manor Planned Development District (PDD) application, submitted by William J. Cade, for the development of a variety of single family homes, 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 PDD in the Town of Bethlehem to be located on 129.85+/- acres comprising seven parcels located on Fisher Boulevard and Orchard Street. The establishment of the PDD will amend the current zoning district designation on 25.55+/- acres of land located on the northern side of Orchard Street from Residential Large Lot District (RLL) to PDD, and 104.30+/- acres of land along the western side of Fisher Boulevard from Residential "A" District (RA) and a portions zoned RLL to PDD. The project will include the development of three different styles of single-family homes (85 new dwelling units or lots). Two existing single-family homes currently exist on the site and will remain (total of 87 units). Forty-nine (49) lots will consist of conventional single-family homes, similar to the adjacent Fisher Hollow and Cedar Ridge subdivisions. Thirty (30) lots are proposed as townhomes that are similar to the existing Walden Fields located along Elsmere Avenue. Finally, the six (6) lots to be located along Orchard Street will consist of estate lots that are similar to the recently constructed large lot residences in the area.

The project includes the protection of the Phillipin Kill stream corridor (35+/- acres) and will provide pedestrian access to the NYSDEC Five Rivers through a 30-foot wide easement (0.62+/-acres) along the northern property line adjacent to Fisher Boulevard through conveyance to the State of New York or other conservation organization. Approximately 110 homes are within a ¼-mile, while 340 homes are within a

½-mile radius to the north, south, and east of the site in Bethlehem. Based on population estimate data prepared by the Capital District Regional Planning Commission, this equates to approximately 270 Town residents within a ¼-mile and 550 Town residents within a ½-mile of the pedestrian access easement to NYSDEC Five Rivers.

The project includes the addition of two (2) new intersections, an additional leg of an existing intersection, and one driveway to Fisher Boulevard. Six new driveways are proposed along Orchard Street, and Prestwick Drive will be extended. All traffic to and from the site will travel along Delaware Avenue, New Scotland Road, Fisher Boulevard or Orchard Street.

Project Location

The PDD would include 129.85+/- acres of the lands that are part of several parcels located along the western side of Fisher Boulevard in the vicinity of the Fisher Hollow and Cedar Ridge subdivisions, and along the northern side of Orchard Street. The project extends from a point approximately 810 feet west and approximately 1500 feet north of the intersection of Fisher Boulevard and Orchard Street in the Town of Bethlehem, Albany County, New York.

The zoning district designation of the following tax parcels, 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):

84.00-3-1.10, 84.00-3-1.30, 84.00-16-1.10, and that portion of 84.00-3-16.20, 84.00-3-15, 84.00-3-4 currently zoned Residential A District (RA).

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

84.00-3-11.20, and that portion of 84.00-3-16.20, 84.00-3-15, 84.00-3-4 currently zoned Residential Large Lot (RLL).

Title of Drawings

Phillipin Kill Manor Planned Development District, Fisher Boulevard and Orchard Street, Town of Bethlehem, Albany County, State of New York, Drawing Number 1/1 – Dated 4/30/09, and revised 05/12/10; Prepared by Brewer Engineering Associates, P.C., 743 Columbia Turnpike, East Greenbush, New York 12061

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”, and the related documents included in the PDD application package prepared by Brewer Engineering, dated November 2007, revised November 2009.

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 includes “Recommendations for a Planned Development District”, and states the following:

“Providing for public spaces through pocket parks, trails or other gathering spaces could be a public benefit that is developed as a component of the PDD.”

In further support of the above, the Comprehensive Plan also emphasizes the need to provide a variety of housing types throughout the Town, including the newly defined Residential “A” District. Accordingly, the project will respond to the needs of the diverse population in the Town of Bethlehem by providing three different styles of single family homes: large lot/estate homes, conventional single family homes, and townhomes. All three styles are in character with the surrounding community.

The project will provide a variety of housing types for Bethlehem residents, and afford open space benefits through conservation of the Phillipin Kill corridor, and provide public access within the Town to

the NYSDEC Five Rivers Environmental Education Center through conveyance to the State of New York or other conservation organization.

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 129.85+/- acres. Of that gross total, approximately 74.91 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 northern, southern, western, and portions of the eastern district boundaries adhere to the 50-foot perimeter setback. Exceptions to the 50-foot perimeter setback are located at the rear of Lots #43, 42, 41, 40, 39, 38, 37, 36, and 35 along Manor View Road and Lots #23, 22, 21, 20, 19, 18, 17, and 16 along Canterbury Drive, which illustrate a 25-foot setback along the perimeter. This reduced setback is consistent with the existing rear yard setbacks of adjoining properties. The lots along Canterbury Drive abut existing single-family homes of the Cedar Ridge subdivision, which maintain a 25-foot rear yard setback. The 25-foot PDD perimeter setback along the lots listed above would be compatible with the 25-foot rear yard setback of neighboring lots and standards of the RA Zoning District. At its October 20, 2009 meeting, the Planning Board determined the reduced setback along the perimeter of the PDD for the lots listed above was appropriate for the project.

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 units would comply with this criteria.

All streets will be owned and maintained by the Town of Bethlehem (Brandywine Drive, Manor View Road, Canterbury Drive, Ramsgate Court, and extension of Prestwick Drive).

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 three Town owned and maintained roadways, including Fisher Boulevard, Orchard Street, and Prestwick Drive. One driveway will directly access Fisher Boulevard, and six driveways will directly access Orchard Street. Two new intersections (proposed Brandywine Drive and Canterbury Drive) will intersect with Fisher Boulevard, and a fourth leg (Manor View Road) will connect to the existing Swan Place/Fisher Boulevard intersection. Prestwick Drive will extend an additional 400+/- feet and provide access for five driveways.

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.

All residential parking will be accommodated by attached garages accessed by typical residential driveways.

Maximum Dwelling Unit Density. This provision establishes maximum density ratios for residences in a PDD. For single family residences, the limit is set at 5 dwelling units per acre. For all other residential structures, including townhomes, 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)(g) defines the acreage to be used for calculating such density. The Applicant, in a letter to the Department of Economic Development and Planning, dated October 15, 2009, provides the following information 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 129.85 acres.
- Estimated constrained land of the parcel, based on the definition of this term contained in Section 128-22 of the Zoning Code, is about 29.56 acres. An additional 25.38 acres of lands surrounding the Phillipin Kill does not meet the definition of constrained land but is not accessible for development due to existing project topography. Therefore, this 25.38 acres is treated as other constrained land, which brings the total constrained land area to 54.94 acres.
- The total estimated unconstrained land area is 74.91 acres.
- Estimated dwelling unit density, assuming up to 87 dwelling units as shown on the plans submitted with this Application for a PDD is approximately 1.16 units per net acre. This number is well below the maximum 5 dwelling units per acre allowed for single family residences and 8 dwelling units per acre allowed for two family dwellings (townhomes) in a Planned Development District, per Section 128-40 (H)(1)(g).

As a condition of approval, the Board hereby finds that the density of 1.16 units per acre is appropriate for the site. It is further recognized that during the subdivision review process, site conditions may require an adjustment in the total number of units but in no case shall the number of units exceed 87.

C. Consistency with Surrounding Land Uses

The existing development along the north, south, east, and west of the site is residential in nature. Much of the land was once dedicated to farm uses, and some of the homes nearby are located on such land. Most residences to the north, west and east of the site are located on conventional single family lots. Residences to the south of the site consist of large, estate lot homes (2 acre lot sizes). A portion of the land located to the northwest of the site is maintained as the Five Rivers Environmental Education Center owned by the NYSDEC.

The residential development is confined to those areas of the existing landscape that are relatively flat, avoiding those areas where steep slopes exist and avoiding wetland areas where possible. The developed area will be located entirely on the west side of Fisher Boulevard, and north side of Orchard Street. The land surrounding the Phillipin Kill Corridor (35.30 acres) will be protected through the dedication of lands to the State of New York or conservation organization.

The Phillipin Kill Manor project will not change the general density of the existing property permitted through its current RLL and RA zoning district regulations. The existing residential character will not be changed due to the establishment of townhomes since the homes reflect a different style of a single family home.

D. Site Related Impacts

Impact on Land. The Phillipin Kill Manor project will be concentrated on approximately 75 acres of wooded and grassed land (former agricultural field). Areas containing environmental constraints, such as steep slopes, wetlands, streams, and archaeological features have been identified and will be avoided or mitigated.

Due to the size of the project, construction will continue for more than one year. At this time, no plans are in place to break the project into phases, but the housing units may be constructed in a way to minimize the amount of open disturbances during construction. This issue will be further defined during the subdivision review process.

Soils and Steep Slopes. The dominant soils on site are Scio, Unadilla, Wayland, Rayham, Hudson, Rhinebeck, and Fluvaquents-Unifluvaquents Complex. A “safe setback line”, as shown on the site development plan, was generally established for the site based on slopes of 20% or greater. A geotechnical analysis of the site shall be performed during the subdivision review process by the Applicant’s consultants to identify procedures to be followed for the construction of the project. The design and construction of the project will be required to follow all recommendations of the geotechnical

report.

Based on the safe setback line analysis, the setback requirements have been met and there will be no impact on the sloped areas.

Impact on Water/Wetlands. The project is not expected to have a significant effect on any protected water body. The Phillipin Kill, which is classified as a “C” water body, extending 8,980 linear feet, will be protected. Approximately 35.30 acres of land surrounding the Phillipin Kill is proposed to be voluntarily conveyed to the State of New York or other conservation organization for conservation purposes.

There are no State (NYSDEC) jurisdictional wetlands. A Wetland Delineation Report, dated July 1999, was prepared by Roger J. Case, Diversified Soil Scientist, Ltd. Based on a US Army Corps of Engineers (ACOE) jurisdictional determination letter, dated September 16, 2003, there are 10.91 acres of ACOE jurisdictional wetlands, 0.19 acres of isolated wetlands, 8,980 linear feet of stream channel, and a 0.53-acre pond on site. Up to 1.554 acres of total wetland impact are anticipated, which includes 1.088 acres of previous filled wetlands. In a letter dated October 8, 2009, Roger J. Case, Diversified Soil Scientist, Ltd., stated he conducted a field review of the wetlands and confirmed that wetlands identified from the original delineation have not changed. Approximately 4.845 acres of appropriate wetland reclamation will be provided in accordance with ACOE requirements. Based on correspondence from ACOE, dated December 2, 2009, an ACOE Individual Permit has been applied for by the Applicant and ACOE is currently reviewing the application materials.

Areas on the site have been identified for wetland reclamation, which will enhance the existing wetlands on the site. Final reclamation scope and layout will be determined during ACOE permitting and final subdivision review.

Impact on Stormwater. The proposed stormwater management system for the project will be designed to meet both Town and NYSDEC standards. A completed Town of Bethlehem Stormwater Management Practice (SMP) Selection Matrices Form, dated November 10, 2009, has been submitted with the application. The project will include stormwater management facilities designed to meet the NYSDEC GP-0-10-001 requirements for treating stormwater quality and quantity. An erosion and sediment control plan (E&SCP), which prescribes construction-phase erosion and sediment controls, will be required as part of any subdivision approval issued for the project. The applicant is required to file a notice of intent (NOI) for project coverage under NYSDEC GP-0-10-001 following any subdivision approval issued for the project. It is expected that the facilities will be Town-owned. The Town’s Stormwater Management Program Coordinator, in a memo dated January 15, 2010, stated that the NYS SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-08-001) will be revised by May 2010 and changes to the existing Design Manual are anticipated. The Town recommends all projects that have not yet completed a final design of the SMPs start applying the green infrastructure techniques using the draft versions of the new chapters of the Design Manual.

Final stormwater layout and scope will be determined during final subdivision review.

Impact on Air. The Phillipin Kill Manor 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. The Phillipin Kill Manor 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 Phillipin Kill Manor project will be constructed on dormant agricultural and forested land. The construction activity will require excavation and compaction of the soil on the site.

The construction activity would convert approximately twenty five acres of dormant agricultural land to residential development. There is no plan to mitigate the construction activity, but the disturbance to the area will be minimized with the creation of open spaces, such as the conservation of lands and an access easement within the property.

Impact on Aesthetic Resources. The Phillipin Kill Manor project will not affect any aesthetic resources. The project’s visible components will not eliminate or reduce the enjoyment of the aesthetic qualities of adjacent Five Rivers Environmental Education Center. Scenic views will be enhanced with the establishment of the 30-foot wide access easement for a pedestrian connection to Five Rivers. Landscaping and buffering along the property lines will provide screening of the neighboring parcels.

Impact on Historic and Archaeological Resources. A Phase 1A/1B Archeological Survey and

Archeological Site Confirmation and Boundary Definition Report were prepared by Edward V. Curtin Consulting Archaeologist, dated February 2003. The report concluded that out of 497 shovel test pits, seven prehistoric sites were encountered during a surface collection. Correspondence by the State Historic Preservation Office (SHPO), dated February 13, 2008 acknowledged seven previously unrecorded archaeological sites identified, which locations are illustrated on the site development plan. The Applicant will provide avoidance and preservation plans in accordance with correspondence by SHPO, dated November 6, 2009.

The project will not have a significant or long-term adverse impact on archeological resources or historic properties.

Impact on Open Spaces and Recreation. The Phillipin Kill Manor project will minimize its impacts on existing open space in that approximately 35.30 acres of land surrounding the Phillipin Kill will remain as open space through dedication to the State of New York or conservation organization. An additional 0.65 acres will remain as open space through a 30-foot wide access easement along the northerly property line, conveyed to the State of New York or conservation organization, to provide pedestrian access from Fisher Boulevard to NYSDEC Five Rivers.

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

Impact on Transportation. The Phillipin Kill Manor project (2012 Build condition) is expected to have minimal impacts on the existing traffic systems. A Traffic Impact Study, dated June 5, 2008, prepared by Creighton Manning Engineering, LLP concluded the level of service analysis at the study area intersections indicates good level of service will be maintained with the development of the site. However, the level of service analysis for the New Scotland Road/Fisher Boulevard intersection experiences increases in delay between the Existing, No-Build and Build conditions with an increase in traffic volumes. The LOS E conditions on Fisher Boulevard expected in the Build Conditions are typical at unsignalized locations along busy corridors during the peak periods. It is recommended that the Town, and Applicant work with NYSDOT to review the need for a westbound left-turn lane on New Scotland Road as traffic volume increases. The Study also recommends Stop sign be placed on the eastbound approaches to the three new intersection approaches of Brandywine Drive, Manor View Road, and Canterbury Drive intersections. The sight distances at Driveway 2 and Driveway 4 shall be designed in accordance with the Town's Designated Engineer, Barton & Loguidice, P.C., review/recommendation letter, dated October 6, 2008.

A 10-foot wide shared use path will be constructed along the project's Fisher Boulevard frontage, and connect to the existing 10-foot wide multi-use path that currently terminates at Lands of Malatino. This feature will enhance the pedestrian and bicycle friendly environment that encourages people to walk or bicycle in this area of the Town.

Impact on Energy. The 85 new units will require additional energy demands from National Grid typical of single family residential housing. Using energy-efficient appliances and fixtures could further mitigate the amount of energy used by the development.

Noise and Odor Impacts. When completed, the Phillipin Kill Manor 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 Phillipin Kill Manor project will have no impacts on public health and safety.

Impact on Town's Infrastructure (Water & Sanitary). The project will not require the extension of the existing municipal water district, since the Town Board approved an extension of the water district in March 2010 to include this area of the Town. The project will connect to the town owned 16-inch main along Fisher Boulevard, 8-inch main along Orchard Street, and 8-inch main along Prestwick Drive. A new 8-inch main will be installed along proposed roads, Brandywine Drive, Canterbury Drive, Manor View Road, Ramsgate Court, and Prestwick Drive extension to serve the eighty-seven housing units.

The project will require the extension of the existing sewer district. The project will connect to the existing sanitary sewer system located along Fisher Boulevard, Orchard Street and Prestwick Drive and discharge to the town owned 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.

Additionally, a plan for connection to the sewer system along Orchard Street will be required, since the

Town will not establish public ownership of the proposed grinder pumps for the six lots along Orchard Street, as recommended by the Albany County Department of Health.

The anticipated average daily demand for wastewater for this project is 21,500 gpd.

Impact on Growth and Character of Community or Neighborhood. The Phillipin Kill Manor project will not change the density of the existing property since the design generally complies with the existing RLL and RA zoning regulations.

The original proposal, dating to 1996, called for 132 residential building lots, of which 42 lots were to be located on the 25 acres site along Orchard Avenue. During review of the proposed layout by Town staff and meetings with residents of the community, alternate layouts were presented which ultimately reduced the lot total to 109 units, 24 of which were located on Orchard Street. Following recommendations from the Development Planning Committee (DPC) the proposed lots on Orchard Street were reduced to 6 estate lots to maintain the rural character of the Orchard Street area. Additionally, the project was reduced to 49 conventional single family homes along Fisher Boulevard, and 30 townhomes to provide a diversity of housing options as reflected in the Town of Bethlehem Comprehensive Plan.

The residences will be in similar style to existing single family home design and character located in the adjacent Fisher Hollow and Cedar Ridge subdivisions, and estate lots along Orchard Street.

NOW, THEREFORE, BE IT RESOLVED,

The Town Board has reviewed the PDD application 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 May 26, 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 subdivision approval from the Town of Bethlehem Planning Board. The Planning Board shall not approve any subdivision within this Planned Development District unless said Board finds that the subdivision 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 subdivision, 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.

The Board reviewed the draft Local Law amending the Zoning Map prepared by staff.

A motion to approve the Local Law as drafted was offered by Councilman Kotary, seconded by Councilman Jordan and approved with the following vote:

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

NAYES: Councilman Hennessey

ABSENT: none

REQUEST FROM THE ADMINISTRATOR OF PARKS AND RECREATION FOR APPROVAL OF SEASONAL PERSONNEL TO BE EMPLOYED AT THE TOWN PARK

A motion to approve the seasonal personnel listed in Ms. Lanahan's memo of May 26, 2010 was offered by Councilman Jordan, seconded by Councilman Kotary and approved with the following vote:

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

NAYES: none

ABSENT: none

NEW BUSINESS

Supervisor Messina said there has been an electrical outage at the tennis courts at the Elm Avenue Park. The lights have become undependable and sometimes non-functional at all. The cost of the repairs could

be as much as \$13,000. He said 800 to 1,000 use the courts in the evening and there have been many calls. He said the Town will go to competitive bid to keep the costs down.

A motion to expend up to \$13,000 of Parks and Recreation funds to repair the lights was offered by Supervisor Messina. There was no second. The motion did not carry.

Councilman Kotary said the Board had become aware of the Supervisor purchasing a live online video streaming system. This was another issue that the Town Board had not been informed of; they had found out through a press release. He thought this was a problem for several reasons: where was the communication, openness and transparency and there is a difficult budget situation. The Supervisor has gone ahead on a luxury item that for two years the Board has not supported. He did not believe this was a necessary item. In Selkirk a few nights ago the residents of that community were told there was no money for bridges, sidewalks and sewer. He said in Town Law it is clear that contracts need to be approved by the Town Board, this was not, and any budget modifications needed to be approved by the Board, this was not. It is the Town's procurement policy that any expenditure over \$10,000 should go before the Board and should have a bid process. It was done through an OGS contract, which requires an additional contract because there are monthly fees. This is not a one time expense, but commits the Town to a recurring expense into 2011 and the Board has not discussed or passed a budget for that year. The types of expenditures should be approved by the Board, major policy decisions should be approved by the Board. Town Law says that the Town Board has the authority to determine procedures for Town Board meetings and televising meetings would fall under that category. Neither the Town Board nor the Town attorney has seen the contract. He thought it was irresponsible to commit the Town to any expenses beyond the current fiscal year. There have been discussions on what the procurement policy says and doesn't say. It clearly doesn't address contracts and it clearly doesn't address some of these particulars that are being considered in this case. He said anything that is not specifically mentioned in that policy doesn't mean that the Town Board relinquishes its authority. Since the purchasing procedure doesn't address these issues, he felt the Board retains authority over those issues such as signing a contract, such as non-budgeted expenditures, such as approving regularly recurring fees and particularly committing the Town into a future fiscal year. For all those reasons, the Town Board should have been notified and this is an issue for the Board. This item was purchased from a line item not intended for this purpose in the Supervisors budget and this type of purpose was discussed not only this year but the previous year and the Board specifically said they would not include this in the budget. This was not only his opinion but also the opinion of the Spotlight that was expressed in an editorial. Councilman Kotary said he felt this was done improperly, in secret, unethically and against the will of the Board, perhaps even illegally. This goes against the very nature of opening communications. He asked why this was done in this way.

Councilman Hennessey said Town Law Section 64, subsection 6 says the Town Board may award contracts for any of the purposes authorized by law and the same shall be exercised by the Supervisor in the name of the Town after the approval of the Town Board. He asked the Supervisor why he took the action that he had when the law was clear on how things should function.

Councilman Jordan said his opinion as a lawyer was that this was an illegal contract but if you ask more than one lawyer the same questions you'll get different answers. He yielded to Mr. Potter, an expert in municipal law, for his opinion as to the legality of the contract.

Councilwoman Dawson said she found it ironic in the light of recent discussions and some actions taken to provide more Town Board information to the residents that this occurred without any conversation with the Board members. There was silence on the topic. Being forced to respond to things publically is not a position she wants to be in. She wanted to reiterate Kyle's point that it is ironic that as an effort to increase communication when there was zero communication with the Supervisor's colleagues. She wanted to know when the discussions began.

Supervisor Messina said he would talk about authorization first. The authorization to funds was in the Supervisor's budget. It was under contractual services and the category of expenditure that was used was appropriate. The purchase was off state contract, a separate contractual document was not necessary. He had this reviewed by the Deputy Comptroller and by our MIS Director. In terms of what was purchased, big numbers were thrown around tonight from Mr. Cunningham talking about tens of thousands of dollars to an actual cost of \$12,800 for equipment and \$3,000 for training. Those are one time expenditures. The system will do a lot of things and our cost is \$410 per month on a month to month basis. This can be canceled at any time. In terms of communications, this issue is not a new thing. On July 1, 2009 in a memo to the Supervisor and the Board members submitted by Supervisor Messina recommended that the a small work group look at online video streaming, expanding our agenda to look at ways to release agenda items. He couldn't get that on the agenda for the Board meeting of July 8. He was told it had to be raised under new business. He did and laid out a plan to move things forward that should have moved forward almost a year ago.

As with providing lights for safety and public access in our park system, he couldn't get a motion. At his inauguration on January 1, he spoke about the opportunity to move forward with access to our

government when they could see it, in their homes inexpensively. At the state of the Town he spoke about moving this proposal forward because he sensed the Town wanted it and it was good government. He realized the Board members didn't hear anything at his inauguration or at the State of the Town because no one was there with him. He said there was a WEBINAR broadcast to look at this system; The MIS director was there, Mike Morelli, the Supervisor, the Town Clerk and others. The IQM2 had the capabilities of cost effectively providing information to the public and you could key into areas of the agenda that might have saved time in the creation of minutes. Councilman Hennessey was invited to the broadcast but couldn't make it. On May 4th, Mr. Dammeyer provided information to the Board that we were looking at a IQM2 system that was cost effective and would achieve a lot of our public information goals. Supervisor Messina said he followed through an agenda item that he promised to the public and was good for public service that he brought to the Board a year ago. He had the money in his budget and the authorization to do this and his reading of Mr. Potter's review of this was that he did have the authorization to act as he did. He provided low cost accessibility to our government. To look at it another way, the Board meetings are becoming situations where to his way of thinking are focusing on small issues rather than key policy and program issues facing our Town. This is an important issue in terms of public access but in terms of the policy things the Board needs to be focusing on, instead of going to 9:00 at night and trusting our comptroller to give us information and know things which she does know about bonding rather than dragging out things till 9:00 or 10:00 is not the direction the Board should be going. The things that Supervisor Cunningham did without even being questioned and without coming to the Board in terms of personnel and in terms of acquisition don't seem to be the same rules the Board is working with Supervisor Messina. He asked for a level playing field. \$19,200 was expended by Mr. Cunningham for a Town Board agenda creator. Supervisor Messina said he was on the Town Board in 2008 and it didn't go before the Board. Another \$10,000 was expended for an audio system for Town Hall and that wasn't brought before the Board. He was trying to ask what is right and he would gladly communicate with the Board but he felt that everything he communicates is picked apart and delayed. When he acts in the way he think he has to for the Town, this is what happens. That's his take, he's willing to change and share more but he needs cooperation to move this Town forward.

Councilman Hennessey said he just heard, I did it because I could. The way he sees it is the tyranny of one is democracy for none. Just because you think you can do something doesn't mean you should. The way he reads the Town Law, that contract should have come before the Town Board. He can't speak for what happened in 2008 but using that as justification for what the Supervisor did was not sufficient. As to the comment that this was reviewed by the Deputy Comptroller, why was it not reviewed and approved by the Comptroller.

Supervisor Messina said the Deputy Comptroller deals with purchasing and has 20 years of experience. Mr. Webster said he approved in the method of was there a contract in place for the Supervisor to make a purchase. He looked at that in that regard. There was a current OGS contract for the materials for this project to go forward. Councilman Hennessey said he did not question Mr. Webster's actions. Mr. Webster said the second piece was if it was being charged out of the proper account code. Those are the 2 things he could address. Councilman Hennessey asked the Supervisor how he got over the hump of Town Law Section 64-6. Mr. Potter said that under that section of Town Law the Town Board has the power and the duty to approve any contract that the Town enters into. That being said Town Boards also have the ability to delegate the authority to enter into certain contracts. They often do that for minor contracts. In highway law there is a provision that allows the Town Board to delegate to the Highway Superintendent the ability to make purchases. This Town Board at the organizational meeting gave that authority to the Highway Superintendent to make purchases up to \$10,000 without approval. He looked to see if this Board had given that authority to anyone else. He could only find the purchasing procedures that were adopted by the Town Board. These provide a set of procedures for acquisitions of goods and public works at different levels. Those procedures don't specifically say if department heads have the ability to do something other than purchase goods or whether they can enter into other types of contracts. In order to interpret this and the intent is to look at what past policies and practices were with respect to contracts such as this one. He hasn't had the opportunity to go through with Mr. Webster those practices.

Councilman Kotary said from a legal basis, unless a Town Board relinquishes or delegates authority they retain all other authority. The Town Board has not relinquished the authority to approve contracts and absent of that specific delegation or relinquish, it goes back to Town Law, especially over the amount of \$10,000. This apparently does require a separate contract over OGS.

Mr. Potter didn't think this was crystal clear. In the purchasing procedures there is the ability of a department head to enter into a public works contract up to \$999. A public works contract would be for services. He presumed that department heads have entered into those contracts in the past. Any contract is still signed by the Supervisor. Section 64 of Town Law says contracts must be approved by the Town Board and then signed by the Supervisor. Mr. Potter says he has not seen the contract in question so he doesn't know if it's a contract for goods or for services. A contract for services would be a public works contract. Mr. Webster said it was bought off of an OGS contract with circumvents the whole program. Mr. Potter said first was the acquisition authorized and second were proper adherence done to public bidding laws. One could argue that the purchasing procedures speak to the second point and were the

procedures properly followed. This written guideline is not crystal clear on that issue what if any authority has this Board delegated to department heads or the Supervisor.

Supervisor Messina asked if past practice impacts this. Mr. Potter thought it would. If he were advocating for a client in a court of law and he would look to past practice for interpretation of intent.

Councilman Hennessey asked what state contract this purchased off of. He took a look at the OGS website and the state comptrollers open book WEB site and didn't find IQM2 anywhere. Mr. Webster said all the equipment would have been bought off the SONY electronics contract. This is for the hardware. This is an equipment contract. Mr. Webster said it's also the installation of all the equipment so it's both equipment and labor. It was still off of a valid OGS contract. Mr. Potter says this raises a different point. If the purchasing procedures document is the authority for a department head to enter into a contract and this is a contract for goods and services the language refers to up to \$10,000.

Councilman Kotary said the point he wanted to make was regardless of what was written in the procedures, he said a cost of \$12,800 + \$3,000 plus almost \$500 per month and after 5 years that's \$25,000 for monthly costs. This item was brought up in the budget and the intent of the Board was not to purchase this equipment right now. There isn't a single person in Town that will have greater access to Town Board. It is broadcast on Channel 18, the minutes are on line, or come in person. It doesn't give greater access to anyone. The means don't justify the ends. There are proper procedures. The Board had removed it from the budget, this should have been brought to the Board. His position is that the Board will be taking a look at the procurement procedures because there are loop holes. This is another unbudgeted expenditure. We were short in the budget last year and are short again this year. People are always telling us to look at things and we should not be spending money. This is a policy decision and it's a budget decision. It's a lot more than process. It's making a decision and bringing it openly and publicly to the Board and to the public.

Supervisor Messina said he had seen this good to save money because minutes are expensive to produce. This is something that must be worked on with the Town Clerk to see how it fits and possibly the Planning Board and the Zoning Board. It has the potential to do good stuff. He did approve an expenditure for \$12,500 plus \$3,000 for training because it was in his budget as a one time expenditure. He thought it had communicated this. On the budget issue where it was discussed a year ago and they decided not to go in that direction, numbers were in the 60 to 80 thousand dollar bracket. Of course no one would spend that on this. This proposal is \$400 per month and if other communities are interested in seeing this and come in there is the potential for lower costs. Even though Jack Cunningham said tonight that no one would use this, it's clearly documented in the minutes on July 8th that he thought this was a good idea but the cost was too much. He doesn't have a Town vehicle, that's a savings. It thought it was a good government thing that was advanced. He wished he could talk to the Board in more detail.

Councilman Hennessey said he acknowledged the Supervisor's extension of friendship and the Board felt the same way but the contract doesn't do it as it stands and it sets a bad precedence for the Town if the Board allows this to move forward. He would be willing to work with the Supervisor on a project like this so it could go to competitive bid maybe a technology company in Town would like to do something like this. The Board should work together to express the needs they all think are important. This might be an incentive for a technology company here in Town that might be interested in doing these types of services. \$12,000 to a small firm is a good contract. If the Supervisor wants to work with the Board, he should pull back the contract so the Board can work on this together.

Supervisor Messina said he would not do that because he thought he acted appropriately. He said that is not something he was willing to do. He asked the Board to show an interest in providing information to the public then they would have a basis for conversation.

Councilman Jordan asked Mr. Potter if the Board had the legal right to rescind the contract. Mr. Potter said the contract was could be voidable by its terms, per what the Supervisor said.

Councilman Hennessey made a motion to rescind the contract, seconded by Councilman Kotary

Discussion: Councilman Jordan was not as concerned about the procedures that were followed but he was concerned about the monies being spent. Another proposal was for \$13,000 for lights. We should be looking to put solar lights on those courts and relatively inexpensive. He wants staff to look at that. That's why there wasn't a second to his earlier motion. There is a managers meeting coming up for an undefined sum of money and he asked if there were numbers for that. If you start adding all these numbers up it gets to about \$30,000. This is not the Supervisors budget but the Town's peoples budget. What is it not being spent on that the money was budgeted for.

Supervisor Messina said a few meetings ago Councilman Jordan had suggested moving out of this building because it needed repairs incurring significant costs. Concerning the management development day, he had spoken with staff to ask if they had ever team built offsite and they had not. 3 or 4 people are

working on that, he doesn't know the cost but there is enough training money to carry that out. It's to help staff grow, he asked the Board to join them. It's for one day offsite.

Councilman Jordan said he had no idea what this had to do with moving out of Town Hall. His concerns are that the Town continues to put significant money into this structure and eventually we are going to have to look for another Town Hall. It has nothing to do with this discussion.

Councilman Kotary said for him the issue was dollars and cents. He has heard from a lot of people. There was a lengthy discussion on bonding because it was put on the agenda at the last minute and bonding was an issue that Supervisor Messina had campaigned against and now bonding was the greatest thing in the world. And the Supervisor tried to put in additional spending regardless of its merits. As a Board member he thought it was their responsibility to look at new spending. Four years ago he had brought up video streaming and the high numbers had come from Mr. Dammeyer, the numbers had clearly changed. It is still a luxury item.

The motion was approved with the following vote:

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

NAYES: Supervisor Messina

ABSENT none

Councilman Hennessey asked why the management development day was chosen to be out of Town and wasn't there a place in Town that could have accommodated them. Supervisor Messina did not answer.

PUBLIC ANNOUNCEMENTS-----

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Linda Jasinski – was in favor of the internet streaming, thought many would use it and the Town Board shut down the public. Didn't think it was a luxury item. Didn't put off hiring police officers to save money. The lights should be fixed, maybe pay as you go lighting. OGS contracts are competitively bid. IT salaries are high and we should get some work out of them. Should try it and then change companies if they want, Town attorney wasn't sure it was inappropriate use of funds.

Councilman Kotary – the Board's not closing down the people. It was discussion on the way the Supervisor handled the issue and if we can afford it. He heard from her that the end justifies the means and the Supervisor can spend whatever they want if it's something she supports.

John Shepard – doesn't usually attend. Doesn't like the way the Board functions and they should work together or the people will change things.

Bob Jasinski – asked about the grant for the parkland. Ms. Traylor said the land has been paid for from park funds and they are waiting for the approved grant money. Mr. Cunningham spoke during a time when it should have been for agenda items. The money amount of mentioned seemed high. Thought it was political. He has come at the Board before but he thought the Board was playing politics. He asked the whole Board to work together. Discussion is good. He was in favor of the video streaming.

Councilman Hennessey – he was willing to work to advance video streaming but the process here made him uncomfortable.

Councilman Jordan – pointed out that every printed item on the agenda moved forward. Healthy disagreement is just that. He thought they were protecting tax payer dollars.

A motion to move into Executive session on potential litigation matters was offered by Councilman Jordan, seconded by Councilman Hennessey and approved with the following vote:

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

NAYES: none

ABSENT none

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

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

NAYES: none

ABSENT none

The meeting adjourned at 9:40pm.

Nanci Moquin
Town Clerk

Executive Session, May 26, 2010

The regular Bethlehem Town Board Meeting of May 26, 2010 was adjourned to go into Executive Session at 9:40 P.M. for the purpose of a discussion of potential litigation. A motion to adjourn to Executive Session was offered by Councilman Kotary and seconded by Councilwoman Dawson. The following vote was recorded:

Ayes: Supervisor Messina
Councilman Kotary
Councilwoman Dawson
Councilman Hennessey
Councilman Jordan

Nays: None

During the Executive Session a motion was made by Councilman Jordan and seconded by Councilman Kotary to authorize the Town Assessor and the Supervisor to contract with a professional appraiser to conduct an appraisal on properties owned by Bronco Development, in Elm Estates, proposed for conversion to condominiums. The estimated cost of the appraisal is \$13,000.

The following vote was recorded:

Ayes: Supervisor Messina
Councilman Kotary
Councilwoman Dawson
Councilman Hennessey
Councilman Jordan

Nays: None

The Executive Session was adjourned at 10:15 P.M. with a motion from Councilman Dawson and seconded by Councilman Jordan.

The following vote was recorded:

Ayes: Supervisor Messina
Councilman Kotary
Councilwoman Dawson
Councilman Hennessey
Councilman Jordan

Nays: None