

TOWN BOARD  
NOVEMBER 24, 2009

A regular meeting of the Town Board of the Town of Bethlehem was held on the above date at the Town Hall, 445 Delaware Avenue, Delmar, NY. The meeting was called to order by the Supervisor at 6:00 p.m.

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

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Supervisor Cunningham welcomed everyone and invited them to join in the pledge of allegiance with Senior Planner, Robert Leslie, leading. The Supervisor thanked everyone.

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

HEARING BEGAN: 6:05 p.m.

SUPERVISOR CUNNINGHAM: Move onto the next item. A public hearing to establish the 2010 Bethlehem Sewer District Sewer Tax Rolls. I need a motion to waive the reading of the Call of the Hearing, Affidavit of Publication and Affidavit of Posting and indent on the minutes.

The reading of the call of the hearing was waived on a motion by Mr. Hennessey and seconded by Mr. Kotary with direction to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

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

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TOWN CLERK NEWKIRK:

WHEREAS, 2010 Assessment Rolls have been prepared for the Bethlehem Sewer District and it is necessary to hold a public hearing with reference thereto, NOW, THEREFORE, BE IT RESOLVED, that the Town Board hold a public hearing with reference thereto, at 6:00 p.m. on Tuesday, the 24th day of November 2009, at the Bethlehem Town Hall, and,

BE IT FURTHER RESOLVED, that the Town Clerk be, and she hereby is authorized and directed to publish a notice of such hearing in THE SPOTLIGHT, a newspaper published in Albany County and having a circulation within the Town of Bethlehem, on the 11th day of November 2009.

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 need assistance in order to participate should contact the Town Clerk's office at 439-4955, Ext. 1183. Advanced notice is requested.

The foregoing resolution was presented for adoption by Mr. Messina, seconded by Mr. Kotary and duly adopted by the following votes:

AYES: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson.  
NOES: None.  
ABSENT: Mr. Hennessey.

BY ORDER OF THE TOWN BOARD  
TOWN OF BETHLEHEM  
Kathleen A. Newkirk, MMC, RMC  
TOWN CLERK

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**STATE OF NEW YORK) SS:**  
COUNTY OF ALBANY)

KATHLEEN A. NEWKIRK, 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 November 11, 2009 and that I posted the Notice of Public Hearing on November 11, 2009 on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Kathleen A. Newkirk  
Town Clerk

Sworn to before me this

11th day of November, 2009.

/s/ Julie McNeil  
Notary Public

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SUPERVISOR CUNNINGHAM: Josh, do you want to give us a little review on that and then we'll go to public comment.

COMMISSIONER CANSLER: Sure. The purpose of this hearing is simply if anybody has any questions or issues with the front footage of their particular land and how it applies to the taxes. So, basically, if anyone wants to come in and challenge their front footage, this would be the opportunity to do that.

SUPERVISOR CUNNINGHAM: Okay. Any questions for Josh from the Board? Okay. Any comments on the Bethlehem Sewer District Sewer Tax Rolls for 2010?

Okay, could I have a motion to close the public hearing?

The motion was made by Mr. Messina and seconded by Mr. Hennessey to close the public hearing at 6:07 p.m. The motion was passed by the following vote:

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

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Town Clerk  
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Supervisor Cunningham asked for a motion to accept the 2010 Bethlehem Sewer District Sewer Tax Rolls. The following resolution was presented for adoption:

**Resolution No. 36**

WHEREAS, assessment rolls for the year 2010 have been prepared by the Town Board for and in connection with the Bethlehem Sewer District, the Special Sewer District No. 1 and the South Albany Sewer District, which said rolls were completed and filed with the Town Clerk of said Town, and

WHEREAS, due notice of the completion of the assessment rolls and of the time and place when and where this Board would meet to hear and consider any objections that might be made to said rolls and for the purpose of reviewing, correcting and amending the same, was duly given by the Town Clerk by publication of due notice in THE SPOTLIGHT, a newspaper published in the County of Albany and the Town Board met at the time and place specified, and the hearing was duly had upon said

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 518-439-4955.

assessment rolls,

NOW, THEREFORE, BE IT RESOLVED, that said assessment rolls be and they hereby are approved, affirmed and adopted by the Town Board as filed.

The foregoing resolution was presented for adoption by Mrs. Dawson, seconded by Mr. Hennessey and duly adopted by the following vote:

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

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The next item was to approve the Town Board minutes of October 28, 2009 and November 10, 2009 as submitted.

The motion was made by Mr. Kotary and seconded by Mrs. Dawson to approve the Town Board minutes of October 28, 2009 and November 10, 2009 as submitted. The motion was passed by the following vote:

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

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The following item was a request from Senior Planner, Robert Leslie, Department of Economic Development and Planning, and the Agricultural and Farmland Study Advisory Committee to accept the Bethlehem Agricultural and Farmland Protection Plan. Supervisor Cunningham asked Mr. Leslie to give a presentation on the plan.

Senior Planner Leslie gave an overview of the background of the committee and the recommendations including continued viability of agriculture; direct and adopt a resolution in support of Albany County Right-to-Farm law; establish an Agricultural Advisory Committee; encourage open communication between farmers and owners of agricultural lands and the Bethlehem Police Department; include Agriculture Committee in the Development Planning Committee; adopt agricultural definitions of agricultural uses in the Town Zoning Law; further review the Zoning Law regulations to review support to agricultural uses; and increase number of temporary signs allowed to farms. Mr. Leslie also mentioned medium term recommendations that could also be instituted, as well as, long term recommendations to be considered in the future.

Senior Planner Leslie mentioned some ongoing activities that can continue for benefit of agriculture -- encourage agricultural representation on Town committees and Boards. He said over the years through LUMAC, through the comprehensive plan and several planning studies the Town has done a good job of including agricultural members on those committees and should continue. He said the committee noted that through the process of the Planning Board appointees, New York State law does mention appointing to the Board, if the community has an Ag District, an agricultural member. He said that is something the committee does support.

Senior Planner Leslie noted there was also the mention of all Planning Board Members receiving training on agricultural use planning. He noted current State law requires 4 hours of training over a year's period and some of it should be for agricultural land use planning.

Mr. Leslie mentioned some members of the committee were in attendance. Supervisor Cunningham asked the Town Board members if there were any questions. Councilman Messina thanked Mr. Leslie and the Department of Economic Development and Planning, as well as, the Committee and American Farmland Trust for the work they have done. He noted this seemed to have come together very well. With respect to the recommendations provided in the transmittal memo, Mr. Messina asked if that was a unanimous decision of the committee to forward this. Mr. Leslie said it was noting the last meeting in September, those members present felt it was acceptable to send in. He said they solicited further information from additional

members to see if there were any concerns. He said the concerns were addressed through communication and email.

Councilman Messina said he saw in the information one-on-one meetings with agricultural stakeholders, asking how many people they spoke with one-on-one. Senior Planner Leslie said American Farmland Trust spoke with 10 individuals. He said the individuals were identified by the Ag Committee and meetings set up at their homes. Councilman Messina thanked Mr. Leslie for his work on this report.

Supervisor Cunningham asked if there were any other questions. Councilman Kotary commented by thanking everyone and noted it was a great opportunity of public participation and included all the stakeholders. He said they also utilized the Town resources and he liked the fact that they work with the CACC and existing Committees as well. He noted this is a great set of tools to help the Board make decisions and the recommendations are all very good. He noted he feels the real problem areas will be the economics and financial aspects.

Councilman Kotary asked in regard to the IDA investment, conservation easement, incentive zoning, the PDR, etc. if there is some data yet or some examples in terms of the economic opportunities that are there. He asked what kind of IDA investments or what kind of dollars are being talked about. He said the bottom line is that the Board is trying to allow farms to be able to continue agriculture noting this comes down to dollars. The question was -- what is the plan to be able to figure out exactly what these tools mean for families of small farms, Mr. Kotary said. Senior Planner Leslie said the IDA has restrictions by State law as to what they can do. He said the idea was to work with the IDA and the business connections they have established. He noted there has to be some creative ideas. He gave examples of programs in other counties. He noted they did not come across any town level programs.

Senior Planner Leslie said he thinks the Town has to look at some options for the conservation easement and other ideas. He said he thinks there are other models and work has to be done on this. Supervisor Cunningham noted in addition to that as those things are considered, a look has to be taken at the finances and then decide where the items will be adopted. He said these are not things that are going to happen unless the Town adopts them. He said the financial impact is a part of the consideration and will take place at the same time.

Councilman Hennessey said following up on Mr. Kotary's question, it was said State and Federal programs for purchase of development rights, asking if he could give a description of these programs. Senior Planner Leslie said yes, NYS Department of Agriculture and Markets has a farmland protection grant or some type of fund program that is across the State. He said some of the criteria include the types of soils that are out there. He said one of the overall goals is to protect good soils from further development. Mr. Leslie said there is a Federal program that has similar criteria. He said he does not believe there is a maximum on the amount of funds to be requested but there is a match whether it is from a non-profit or municipality that is in favor of supporting the project. Mr. Hennessey asked what the match might be. Mr. Leslie said he thought it was 20 percent but he was not sure.

Supervisor Cunningham said before moving on, he wanted to thank the individuals that participated in this - the Department of Farmland, the study advisory committee members - Lynn Dente, Tom Gallagher, Paul Kleinke, George Leveille, Stewart Lyman, Nancy Kneff, Chuck Preska, Tim Stanton, Bob Verstandig, and Giles Wagner.

A representative of Cornell Cooperative Extension spoke indicating he was glad he was invited too because this is the first Town in Albany County that has gotten an agreement and worked on this plan. He noted one question that came up, due to there being an Albany County Farmland Protection Plan, why do the towns need one and said he thought that was demonstrated at this meeting. He said you can really zero in on issues in a single town that have an impact on agriculture. He said here in Bethlehem it is very different than maybe Rensselaerville or Coeymans. He said there are different soils and barriers to agriculture including more residents and a lot more traffic along

with more issues here that might not exist in other towns. He said it was a great process and agrees there was a lot of work, a lot of meetings and discussions and a lot of disagreements but that is how you get to a plan like this. He said he thinks it was a great thing and a great plan. He said as they go through there is a PDR in the County, done a couple years ago with State funding in the Town of New Scotland. He said there are a lot of different criteria you have to look at just for the application to be accepted by the State and the Federal money is a lot harder to get. He said he thinks it can be done here. He suggested everyone look at it and noted it is on the website.

Councilman Dawson asked if Cornell Cooperative Extension would be a likely source for training on land use planning. The representative said they would do some of it, noting they do a training every few years for the Assessors and they just did a training with Police Departments on agriculture implements over State and County highways. He said they do some training programs and then there are some other agencies that do training also, like American Farmland Trust indicating they work together. Councilman Dawson thanked him as did the Supervisor.

Mr. Giles Wagner said he has a small cattle farm on Pictuay Road in the lower end of Town. He said one of the things he wanted to point out was that they spent a lot of time trying to balance the needs of the big mega farmer with the needs of the smaller guy who has 4 or 5 horses or grows carrots and brussel sprouts for the farmer's market. He said in developing this they tried to take care of the small guy and the big guy, noting this was the point he wanted to make. He said there are a lot of people like himself who have retired from their career field and went into farming. He said he thinks the plan fills their needs, as well as, the big farmer. Supervisor Cunningham thanked Mr. Wagner.

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to accept the Bethlehem Agricultural and Farmland Protection Plan as requested by Senior Planner, Rob Leslie of the Department of Economic Development and Planning and the Agricultural and Farmland Study Advisory Committee. The motion was passed by the following vote:

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

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The following item was a request from Chief of Police, Louis Corsi, to accept the resignation of Police Officer, Michael Malantino, effective November 29, 2009.

The motion was made by Mr. Kotary and seconded by Mr. Messina to accept the resignation of Police Officer, Michael Malantino, effective November 29, 2009 as requested by Chief of Police, Louis Corsi. The motion was passed by the following vote:

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

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The next item was a request from Chief of Police, Louis Corsi, to appoint William Austin to the position of Police Officer, effective November 29, 2009.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve the appointment of William Austin, Sand Lake, New York, effective November 29, 2009 as requested by Louis Corsi, Chief of Police. The motion was passed by the following vote:

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

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Supervisor Cunningham congratulated Mr. Austin and welcomed him to the Bethlehem Police Department.

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The next item was to accept the 2008 Police Department Annual Report as requested by Chief of Police, Louis Corsi.

The motion was made by Mrs. Dawson and seconded by Mr. Hennessey to accept the 2008 Police Department Annual Report as requested by Chief of Police, Louis Corsi. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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The next item was a request from the Supervisor to schedule a public hearing for December 9, 2009 to consider the adoption of a proposed Local Law amending the Code of the Town of Bethlehem by addition of a new chapter, Noise Abatement and Containment.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve scheduling a public hearing for December 9, 2009 to consider adoption of a proposed Local Law amending the Code of the Town of Bethlehem by addition of a new chapter, Noise Abatement and Containment.

Councilman Messina said it has been a fair while since this was submitted to the Town Board and work has gone on and noted Town Attorney Potter was not in attendance but commented that everyone is familiar with what other reach out to Colonie was done or whatever else happened. He asked Supervisor Cunningham to bring the Board up-to-date. The Supervisor said Mr. Jasinski pointed out when that was first brought in that it was a tool box for the Board to work from. He said they had a kind of draft of a local law that was presented from the Noise Ordinance Committee. He said there were some issues after Counsel looked at it regarding First Amendment rights regarding political speech, issues about measurement, and other issues that needed to be clarified like who can do a permit to make noise basically against the ordinance.

The Supervisor said they looked at other ordinances, one of them being Colonie because as they started looking at this one, Colonie's was being challenged and they went back and relooked at theirs and eliminated all the things that could be challenged. He said they used that and took a lot of what was presented in the original noise ordinance that was presented including the format and included some of the language that helped to make it less challengeable and more able to be enforced. He said they looked at a couple laws - Ithaca and Colonie - and noted he used Mr. Messina's file as well working with Town Attorney Potter and put together what he considers to be a relatively good law that can be amended at any time.

Supervisor Cunningham said the public hearing will be an opportunity to take a look at it and take comments from the community, amend if the Board sees fit and then adopt hopefully. Councilman Messina said one other comment, perhaps this is time to get this on the Town's website so the public can get a look at it also. The Supervisor said he thought it was out there, noting he will check on it. He said he was going to reach out to the Noise Ordinance Committee and ask them to come in and speak also. Councilman Messina thanked the Supervisor.

The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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The next item was a request from Deputy Commissioner of Public Works, Erik

Deyoe, to approve a license agreement with Michael, George, Trudie and Charles Waldenmaier for the construction of a temporary sediment trap on their property on Rupert Road, South Bethlehem at a cost of \$1.00. Supervisor Cunningham noted this item had to be added for tonight and noted this is to manage stormwater coming off the capped landfill until the grass grows there. He said this is good until July 1, 2010 and thanked the Waldenmaier family for acting very quickly, working with the Town and being very reasonable.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve a license agreement with Michael, George, Trudie and Charles Waldenmaier for the construction of a temporary sediment trap on their property on Rupert Road, South Bethlehem at a cost of \$1.00 as requested by Erik Deyoe, Deputy Commissioner of Public Works. The motion was passed by the following vote:

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

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Supervisor Cunningham asked if there was any new business from the Board. There was none.

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The Supervisor made the following announcements:

- ❖ Thursday is Thanksgiving and he wished everyone a wonderful day noting Town Hall will be closed Thursday and Friday.
- ❖ December 4, 2009 is the Holiday Parade starting here at Town Hall and arriving at 4 Corners at 6:05 and lighting the holiday tree. He noted there will be some new stuff in the parade this year.
- ❖ Letters from Santa program going on through December 10, 2009.
- ❖ First United Methodist Church will be the location for the Annual Christmas Dinner on December 25, 2009. He noted anyone wishing to attend this dinner needs to call the Senior Services Department and/or if anyone wishes to make a contribution to this program, it goes to service our seniors that are house-bound and provides transportation.

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Supervisor Cunningham asked if there were any comments on non-agenda items. Mrs. Cindy Radliff of Cottage Lane, Selkirk noted she was from SOS, Sewer of Selkirk, and was here because she has not heard anything except that there is going to be a meeting. She requested an update.

Commissioner of Public Works, Josh Cansler, said they met back in September with the members of the community in Selkirk who were interested in sewers. He said they explained how the whole sewer project would have to be paid for if it was done. He said they were looking for some ways to get funding from other sources, as well as, possibly the Sewer District funding, at least upfront, some of the costs. He said they still have not been able to get a meeting with the firm that they have been trying to meet with. He noted he did send the firm a lot of information from the meeting in September for them to review. He said they have not gotten back with him as far as their analysis about the best way to go about supporting the project.

Commissioner Cansler said once they get back with him with information to determine if there is a way for the Sewer District to support the project upfront. He said they will then sit down with the residents and discuss how this can go forward. Supervisor Cunningham asked if the firm gave a date when they would get back to the Town. Commissioner Cansler said they did not but he sent an email asking about this noting he would follow-up on it.

Mrs. Radliff asked what firm this was. Supervisor Cunningham noted Joe Scott is the Town's bonding attorney. Mrs. Radliff asked if this was for the 3 streets or just for

Cottage Lane. Commissioner Cansler said he asked them to review if they could do just Cottage Lane and/or all 3 streets. Mrs. Radliff asked if the Commissioner would get back to her. Mr. Cansler said he would. Supervisor Cunningham said he would follow-up with Joe Scott Monday and see what the deadline is.

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

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The Supervisor asked for a motion to adjourn to Executive Session to discuss a personnel matter.

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to approve adjourning to Executive Session to discuss a personnel matter. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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The motion was made by Mr. Kotary and seconded by Mr. Hennessey to adjourn the regular Town Board meeting at 6:50 p.m. The motion was carried by the following vote:

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

Noes: None.

Absent: None.

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Town Clerk

#### EXECUTIVE SESSION

The motion was made by Mr. Kotary and seconded by Mr. Messina to approve an agreement with Roger Johnson to provide diversity awareness training as approved by the Town Board relating to the Chief of Police. The motion was passed by the following vote:

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

Noes: None.

Absent: None.