

TOWN BOARD
APRIL 23, 2008

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
Colleen Hummel, Deputy Town Clerk
James T. Potter, Esq., Town Attorney

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Supervisor Cunningham welcomed everyone to a regular meeting of the Bethlehem Town Board. He asked Mr. Potter, Town Attorney, to lead the pledge of allegiance.

The Supervisor noted the first item was public comment. Mrs. Marie Capone asked about 2 items, the location of Delmar Pointe. The Supervisor said it is located on Delaware Avenue just past the high school and medical building.

Mrs. Capone then asked about the money from Tim Gordon to be used by the Town for the police department. She said you keep building houses closer together than the Republicans ever did and this will cause family fights. She said the Town needs more cops. Another thing, according to Mrs. Capone, was that you need more fireman on board because there is a development across from the Blue Cross and Blue Shield building and the houses are too close together and the fireman said if there is a fire, they will all go. She said the Town should look into these things and get more cops, it is not a big deal. She said there are 4 cars in the parking lot every day. She said that is what the Town needs. The Supervisor thanked Mrs. Capone.

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Supervisor Cunningham asked if there were any other comments regarding Board agenda items. There were none.

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PUBLIC HEARING BEGAN 6:10 p.m.

The Supervisor noted the next item was the public hearing to consider acceptance of the maps and plans for improvements to the Bethlehem Sewer District Pumping Stations at Elsmere Avenue, Thatcher Street and John Street in the Town of Bethlehem.

The reading of the call of the hearing was waived on motion made by Mr. Kotary and seconded by Mr. Hennessey 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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A meeting of the Town Board of the Town of Bethlehem, in the County of Albany, New York, was held at the Town Hall, in said Town, on April 9, 2008.

PRESENT:

Hon. John H. Cunningham, Supervisor
Joann Dawson, Board Member
Mark Hennessey, Board Member
Kyle Kotary, Board Member

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In the Matter
of the
Increase and Improvement of Facilities of
the Town of Bethlehem Sewer District No. 1
and the construction of improvements
therein, in the Town of Bethlehem, County
of Albany, New York, pursuant to Section
202-b of the Town Law.

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**ORDER CALLING PUBLIC
HEARING TO BE HELD ON
APRIL 23, 2008**

WHEREAS, the Town Board of the Town of Bethlehem (herein called "Town Board" and "Town", respectively), in the County of Albany, New York, has, pursuant to Town Law, created the Town of Bethlehem Sewer District No. 1 (the "District"), and has directed Barton & Loguidice, P.C., a professional engineering firm licensed in New York, to prepare a map and plan for the District sewer improvements, including but not limited to, the reconstruction and construction of pump stations located on Thatcher Street, Elsmere Avenue, John Street, Kenholm, Hudson Avenue, Skycrest and Kenwood Avenue along with the reconstruction and construction of control buildings, installation of new electric service, installation of stand-by generators, installation of radio telemetry based PLC controlled SCADA systems at each pump station, site improvements including new water service, paved access, security fencing and forcemain improvements and the replacement of approximately 4,200 linear feet of 8-inch, 15-inch and 18-inch forcemain with new 10-inch and 24-inch gravity sewer; and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, (the "Improvements"); and pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such map and plan for said increase and improvement of facilities of the District and has estimated the total cost thereof to be a maximum amount of \$5,200,000; said cost to be financed by the issuance of serial bonds of the Town in the amount of \$5,200,000, offset by any federal, state, county and/or local funds received; and

NOW, THEREFORE, BE IT ORDERED that a meeting of the Town Board of the Town of Bethlehem will be held at the Town Hall, 445 Delaware Avenue, Bethlehem, New York, on April 23, 2008 at 6:00 p.m. o'clock P.M. (prevailing Time) to consider said increase and improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it

FURTHER ORDERED, that the Town Clerk publish at least once in each newspaper designated as the official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing.

DATED: April 9, 2008

TOWN BOARD OF THE
TOWN OF BETHLEHEM

The adoption of the foregoing Order Calling for Public Hearing was duly put to a vote on roll call, which resulted as follows:

AYES: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mr. Hennessey.

NOES: None.

ABSENT: Mrs. Dawson.

The Order Calling for Public Hearing was declared adopted.

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T. Dollard/D. Hess/D. LaCoppla of the city of Albany, being duly sworn, says that he/she is principal Clerk of THE TIMES UNION, a daily newspaper printed in the county of Albany, Town of Colonie, and Published in the County of Albany, Town of Colonie and the city of Albany, aforesaid and that notice of which a printed copy is annexed has been regularly published in the said ALBANY TIMES UNION on the following dates – 04-11-2008.

/s/ Tim Dollard

Sworn to before me this Monday, April 14, 2008

Jodi M. Burick

Notary Public

Albany County

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 Albany Times Union on April 11, 2008 that I posted the Notice of Public Hearing on April 14, 2008 on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Kathleen A. Newkirk, MMC, RMC
Town Clerk

Sworn to before me this

14th day of April, 2007.

/s/ Julie S. McNeil

Notary Public

The Supervisor asked if anyone wished to speak on this matter. Mr. Robert Jasinski of Bender Lane said he realizes we need these pumping stations. He said he is concerned about the bonding resolution to pay for this. He said he understood this is a big bill and it will have to be paid in the future. He asked if the Board could tell him how much it will cost per year and how many years the bonding is for just for the public's information. The Supervisor asked Comptroller Kehoe if she had an estimate on that. Mrs. Kehoe said it will be detailed later in the budget. Mr. Jasinski asked when that will be out. Mrs. Kehoe said later in the year. Mr. Jasinski asked if when she acquired the price would the Board be advised and then it goes into the text. Mrs. Kehoe said that was correct. Mr. Jasinski asked if that would be the Supervisor's call as to when that will be released. Supervisor Cunningham said this will go out as anticipation bonds and then sell the bonds at the end of the project, noting that would possibly be 2010. Mr. Jasinski said the bonding does cost the Town residents money and noted there will be a few issues for bonding. The Supervisor agreed this was correct.

Supervisor Cunningham asked Mr. Jasinski if he had sewer at his home. Mr. Jasinski said he did not because the Town chose to forego it. The Supervisor said this would not affect him and it would be charged to the other sewer districts. Mr. Jasinski said he was asking for the other residents.

The Supervisor asked if there were other comments on this matter. There were none and he asked for a motion to close the public hearing.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to close the public hearing at 6:15 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.

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

The next item was a request from Deputy Commissioner of Public Works, Erik Deyoe, as follows:

1. Adopt SEQRA resolution determination of Type II Action;
2. Adopt resolution approving increase and improvement of facilities;
3. Adopt bond resolution not to exceed \$5.2 million pursuant to local finance law;
4. Authorize advertisement of bids for improvements to Elsmere Avenue, Thatcher Street and John Street Pump Stations.

Supervisor Cunningham noted these items pertained to the previous public hearing and actions that were required.

- 1, Public Hearing was held previously, see above.

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2. The following resolution was presented for adoption:

RESOLUTION NO.14

The following resolution was offered by Mr. Messina, seconded by Mr. Hennessey, to wit;

RESOLUTION DETERMINING THAT AN ACTION TO UNDERTAKE THE INCREASE AND IMPROVEMENT OF FACILITIES OF THE TOWN OF BETHLEHEM SEWER DISTRICT NO. 1, IN THE TOWN OF BETHLEHEM, IN THE COUNTY OF ALBANY, NEW YORK IS A "TYPE II ACTION" AND NO FURTHER ACTION IS REQUIRED UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT.

WHEREAS, the Town Board of the Town of Bethlehem, Albany County, New York (the "Town"), desires to proceed with the Increase and Improvement of Facilities of the Town of Bethlehem Sewer District No. 1 (the "Improvements Project"); and

WHEREAS, the reconstruction of and construction of the Improvement Project consists of the following: including but not limited to, the reconstruction and construction of pump stations located on Thatcher Street, Elsmere Avenue, John Street, Kenholm, Hudson Avenue, Skycrest and Kenwood Avenue along with the reconstruction and construction of control buildings, installation of new electric service, installation of stand-by generators, installation of radio telemetry based PLC controlled SCADA systems at each pump station, site improvements including new water service, paved access, security fencing and forcemain improvements and the replacement of approximately 4,200 linear feet of 8-inch, 15-inch and 18-inch forcemain with new 10-inch and 24-inch gravity sewer; and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, and all preliminary costs and costs incidental thereto (collectively, the "Project"); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations"), the Town desires to determine whether the Project may have a "significant effect on the environment" (as said quoted term is defined in the SEQR Act and the Regulations) and therefore require the preparation of an environmental impact statement; and

WHEREAS, to aid the Town in determining whether the Project may have a significant effect upon the environment, the Town has reviewed the scope of the Project as described in the materials prepared by the Town's Engineer, Barton & Loguidice, P.C., (the "Engineering Materials"); and

WHEREAS, pursuant to the Regulations, the Town has examined the Engineering Materials in order to make an initial determination as to the potential environmental significance of the Project; and

WHEREAS, the Project appears to constitute a "Type II Action" (as said quoted term is defined in the Regulations), and therefore no environmental impact statement or any other determination or procedure under the Regulations is necessary;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD OF THE TOWN OF BETHLEHEM AS FOLLOWS:

SECTION 1. Based upon an examination of the Engineering Materials and the recommendation of the Town Engineers, the Town makes the following findings with respect to the Project:

(A) The Project consists of the following: the reconstruction and construction of the Improvement Project consists of the following: including but not limited to, the reconstruction and construction of pump stations located on Thatcher Street, Elsmere Avenue, John Street, Kenholm, Hudson Avenue, Skycrest and Kenwood Avenue along with the reconstruction and construction of control buildings, installation of new electric service, installation of stand-by generators, installation of radio telemetry based PLC controlled SCADA systems at each pump station, site improvements including new water service, paved access, security fencing and forcemain improvements and the replacement of approximately 4,200 linear feet of 8-inch, 15-inch and 18-inch forcemain with new 10-inch and 24-inch gravity sewer; and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, and all preliminary costs and costs incidental thereto (the "Project").

(B) The Project consists of the replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, which constitutes a "Type II Action" as defined under Section 617.5(c)(2) of the Regulations.

SECTION 2. Based upon the foregoing, the Town makes the following findings and determinations with respect to the Project:

(A) The Project constitutes a "Type II Action" (as said quoted term is defined in the Regulations) under Section 617.5(c)(2) of the Regulations.

(B) Therefore, the Town hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations.

SECTION 3. The Town Supervisor of the Town Board of the Town is hereby directed to file a copy of this Resolution with respect to the Project in the office of the Town.

SECTION 4. This Resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

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

ABSENT: None

The foregoing resolution was thereupon declared duly adopted.

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3. The following resolution was presented for adoption:

RESOLUTION NO. 15

The following resolution was offered by Ms. Dawson, seconded by Mr. Hennessey, to wit;

A meeting of the Town Board of the Town of Bethlehem, in the County of Albany, New York, was held at the Town Hall, in said Town, on April 23, 2008.

PRESENT:

Hon. John H. Cunningham, Supervisor

Joann Dawson, Board Member
Mark Hennessey, Board Member
Kyle Kotary, Board Member
Samuel Messina, Board Member

-----X

In the Matter
of the

Increase and Improvement of Facilities of the Town of Bethlehem Sewer District No. 1, in the Town of Bethlehem, in the County of Albany, New York, pursuant to Section 202-b of the Town Law.

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**RESOLUTION AND ORDER
AFTER PUBLIC HEARING APPROVING
THE INCREASE AND IMPROVEMENT OF
FACILITIES OF THE TOWN OF BETHLEHEM
SEWER DISTRICT NO. 1**

WHEREAS, the Town Board of the Town of Bethlehem (herein called "Town Board" and "Town", respectively), in the County of Albany, New York on behalf of the Town of Bethlehem Sewer District No. 1 (the "District"), in the Town, has directed Barton & Loguidice, P.C., a professional engineering firm licensed in New York, to prepare a map and plan for the sewer system improvements, including but not limited to, the reconstruction and construction of pump stations located on Thatcher Street, Elsmere Avenue, John Street, Kenholm, Hudson Avenue, Skycrest and Kenwood Avenue along with the reconstruction and construction of control buildings, installation of new electric service, installation of stand-by generators, installation of radio telemetry based PLC controlled SCADA systems at each pump station, site improvements including new water service, paved access, security fencing and forcemain improvements and the replacement of approximately 4,200 linear feet of 8-inch, 15-inch and 18-inch forcemain with new 10-inch and 24-inch gravity sewer; and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, (the "Improvements"); and pursuant to the direction of the Town, the Town's Engineer, Barton & Loguidice, P.C., has completed and filed with the Town Board such map and plan for said increase and improvement of facilities of the District and has estimated the total cost thereof to be a maximum amount of \$5,200,000; said cost to be financed by the issuance of serial bonds of the Town in the amount of \$5,200,000, offset by any federal, state, county and/or local funds; and

WHEREAS, the Town Board has given due consideration to the impact that the increase and improvement of the facilities of the District may have on the environment and on the basis of such consideration, the Town Board found that no substantial adverse environmental impact will be caused thereby; and

WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, which has been filed in the office of the Town Clerk.

WHEREAS, the Town Board issued an Order at its April 9, 2008 meeting calling for a public hearing to be held at the Town Hall, Bethlehem, New York, on April 23, 2008 at 6:00 o'clock P.M. (prevailing time) to consider said increase and improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, and post on the sign

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board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing; and

WHEREAS, said notices of the public hearing were properly published and posted and the public hearing duly held at the time and place stated in the notices.

NOW THEREFORE BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF BETHLEHEM, based on the information provided at the public hearing, as follows:

DETERMINED, that it is in the public interest to increase and improve the facilities of the District as hereinabove described and referred to at the estimated maximum cost of \$5,200,000; and it is hereby

DETERMINED, that the parcels and lots of the District shall be benefited by said increase and improvement of the facilities of the District; and it is hereby

DETERMINED, that all parcels and lots benefited by said increase and improvement of the facilities are included in the District; and it is hereby

ORDERED, that the facilities of the District shall be so increased and improved and that the Town shall have an engineer prepare plans and specifications and make a careful estimate of the expense for said increase and improvement of the facilities, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible, and it is hereby

FURTHER ORDERED, that the expense of said increase and improvement of the facilities shall be financed by the issuance of serial bonds of the Town in an amount not to exceed \$5,200,000, said amount to be offset by any federal, state, county and/or local funds, and the costs of said increase and improvement of facilities shall be paid by the assessment, levy and collection of special assessments, from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law, and it is hereby

FURTHER ORDERED, that within ten (10) days after adoption of this Resolution and Order, the Town Clerk shall record with the Clerk of the County of Albany a copy of this Resolution and Order, certified by said Town Clerk.

DATED: April 23, 2008

TOWN BOARD OF THE
TOWN OF BETHLEHEM

The adoption of the foregoing Resolution Approving the Increase and Improvement of Facilities of the Town of Bethlehem Sewer District No. 1 was duly put to a vote on roll call, which resulted as follows:

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

NOES: None

ABSENT: None

The Resolution approving the increase and improvement of facilities of the Sewer District No. 1 was declared adopted.

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4. The following resolution was presented for adoption:

RESOLUTION NO. 16

The following resolution was offered by Mr. Kotary, seconded by Mr. Hennessey, to wit;

A BOND RESOLUTION, DATED APRIL 23, 2008, OF THE TOWN OF BETHLEHEM, ALBANY COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE INCREASE AND IMPROVEMENT OF FACILITIES OF THE TOWN OF BETHLEHEM SEWER DISTRICT NO. 1 AT A MAXIMUM AMOUNT NOT TO EXCEED \$5,200,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,200,000, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Bethlehem, Albany County, New York (the "Town"), has determined to proceed with the Increase and Improvement of Facilities of the Town of Bethlehem Sewer District No. 1 (the "Improvements Project"); and

WHEREAS, the Town Board desires to undertake the reconstruction of and construction of the Improvement Project, including but not limited to, the reconstruction and construction of pump stations located on Thatcher Street, Elsmere Avenue, John Street, Kenholm, Hudson Avenue, Skycrest and Kenwood Avenue along with the reconstruction and construction of control buildings, installation of new electric service, installation of stand-by generators, installation of radio telemetry based PLC controlled SCADA systems at each pump station, site improvements including new water service, paved access, security fencing and forcemain improvements and the replacement of approximately 4,200 linear feet of 8-inch, 15-inch and 18-inch forcemain with new 10-inch and 24-inch gravity sewer; and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, and all preliminary costs and costs incidental thereto (collectively, the "Improvements").

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the Improvements.

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is the increase and improvement of facilities of the Town of Bethlehem Sewer District No. 1 (the "District") in the Town of Bethlehem. The maximum cost of said purpose will not exceed \$5,200,000. The Town Board plans to finance the maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$5,200,000 of said Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds. The cost of such improvements is to be paid by the issuance of serial bonds, and by the assessment, levy and collection of assessments from the several lots and parcels of land within the District which the Town Board shall determine to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of said bonds and the interest on such bonds as the

same shall become due and payable, except as provided by law. It is hereby determined that said purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall be the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds as the same become due and payable, except as provided by law. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code. The Town Supervisor is hereby authorized to execute and deliver in the name and on behalf of the Town a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "SRF Project Financing Agreement"). The Town Supervisor and the Town Clerk and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Financing Agreement. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934. The Town has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other

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applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

1. (a) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
(b) if the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

2. Said obligations are authorized in violation of the provisions of the Constitution of New York.

The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said Town and designated as the official newspaper of said Town for such publication.

This Resolution is effective immediately.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

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

NOES: None

ABSENT: None

The foregoing resolution was thereupon declared duly adopted.

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5. The following resolution was offered by Mr. Hennessey and seconded by Mr. Kotary:

WHEREAS, the Town desires to advertise for bids for Improvements to the Bethlehem Sewer District Pumping Stations at Elsmere Avenue, Thatcher Street and John Street in the Town of Bethlehem. pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 30th day of April, 2008 and that bids be received up to 2:00 p.m. on the 29th day of May, 2008 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

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

Noes: None.

Absent: None.

The next item was a request from Town Planner, Jeffrey Lipnicky, for approval of Building Project Approval for Meadowbrook Section 3 and adoption of resolution relating to Parkland. The following resolution was presented for adoption:

RESOLUTION NO. 17

PLANNING BOARD
TOWN OF BETHLEHEM
RESOLUTION

RESERVATION OF PUBLIC PARKLAND / FEE REQUIREMENT
MEADOWBROOK SECTION 3

WHEREAS, the Town Board of the Town of Bethlehem has received an application under the Town's Planned Development District regulations from Gladstone Development Corporation for Building Project approval of a 48 lot single-

family residential development along Blessing Road; and,
WHEREAS, §128-40(F) of the Code of the Town of Bethlehem provides the Town Board with the authority to review and approve Building Project 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 Building Project approval for residential developments requiring such approval; and,
WHEREAS, said Local Law was adopted by the Town Board after careful consideration of the impacts that new housing 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 park site for active recreation use;
NOW, THEREFORE, BE IT RESOLVED,
that the Town Board hereby finds that the proposed Meadowbrook Section 3 development presents a proper case for the requirement of public parkland, but that a suitable park of adequate size, 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 Meadowbrook Section 3 parcel; and,
BE IT FURTHER RESOLVED,
that the Planning Board of the Town of Bethlehem hereby requires that a fee be paid in lieu of parkland reservation for the proposed Meadowbrook Section 3 development, 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 Mr. Hennessey, seconded by Mr. Messina and a vote of 5 for and 0, against, and 0 absent to approve the Building Project Approval for Meadowbrook Section 3 and the RESOLUTION were adopted on April 23, 2008.

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The motion was made by Mr. Hennessey and seconded by Mr. Messina to approve Building Project Approval Number 36, Meadowbrook Section 3 as requested by Town Planner, Jeffrey Lipnicky. The motion was passed by the following vote:

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

Councilman Messina asked on the previous item if all the items were motioned and passed. Supervisor Cunningham noted they had been. He noted Mr. Jasinski's point was well taken by the Board. He asked about the \$5.2 million and possible offset with Federal, State and local fundings. He asked the Comptroller about the parameters and process to do this. Comptroller Kehoe said they are looking at Environmental Facilities Corporation and getting a lower interest rate on the bonds. She said we probably will not qualify for the grant program but discounted rates. She said she is working with other agencies to see what will be received. No application has been submitted at this time. Mr. Messina thanked everyone.

The following item was a request from Assistant Director of Economic Development and Planning, Mike Morelli, for acceptance of application for Planned Development District, Delmar Pointe, Delaware Avenue. The representative from ABD Engineers and Surveyors gave a brief overview of the proposal noting its location on Delaware Avenue near the medical office building just west of Bethlehem Central High School. It will be 56 condo units and they are asking for a rezoning for 13 acres for multi-family units to be zoned Planned Development District. The location has public water and sewer available. It was noted that this type of housing is very popular for senior citizens and empty nesters along with being needed in Bethlehem. There will also be single family residence housing according to the proposal.

Supervisor Cunningham noted the application is before the Town Board to be forwarded to the Planning Board.

Councilman Dawson inquired about the Boulevard and how it goes up to a 'T' cul-de-sac with regard to fire safety. The engineer noted it is approximately 1000 feet. Councilman Messina asked if there was frontage on Delaware Avenue and whether sidewalks had been discussed or any arrangements made for them. He noted work is being done on sidewalks from Fisher Boulevard to the YMCA location, noting on the other side there are no sidewalks. Mention was made that this has not been to the Planning Board yet. Mr. Messina thanked the engineer.

Councilman Dawson asked if all the multi-family buildings were 2 story similar to the Mansions. The engineer confirmed they would be 2 story.

Councilman Kotary further asked if there would be sidewalks internally. The engineer noted they would be working with the Planning Board on that, noting it is a cul-de-sac and there is plenty of room for walking. Mr. Kotary noted there is an attempt being made to connect neighborhoods and new developments and feels sidewalks should be seriously considered. He noted there have been conversations with the Planning Board regarding these issues.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve the acceptance of the application for a Planned Development District to be called Delmar Pointe as recommended by Michael Morelli, Assistant Director, Economic Development and Planning. The motion was passed by the following vote:

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

The next item was a request from Commissioner of Public Works for authorization of additional remediation and groundwater monitoring, 308 Kenwood Avenue not to exceed \$32,516. Commissioner of Public Works, Josh Cansler, gave background regarding a tank removal from the site and there was some contamination from a previous tank. He said they took the old one out and according to DEC the best way to alleviate this problem would be to make some injections into the ground. This has been done to mediate the contamination and in 2006 the first application was done, according to Mr. Cansler. He said there were a couple areas which need additional treatment so they are asking to go back and do some more remediation.

Supervisor Cunningham asked how long it takes to find out if the process has worked. Mr. Cansler said within a couple months there will be a pretty good idea because most of the remediation takes place immediately. He said the chemical does continue to work over time and by the end of the summer they will monitor it again. He said hopefully by the end of the year they will be able to go back to DEC with the test results.

Councilman Hennessey asked if this was the standard way to handle this problem, is it broadly used. Commissioner of Public Works Cansler said it is widely used for this type of situation and approved by DEC. He said this is probably easier than removing all the contaminated soil. Mr. Hennessey asked if the end result is then a clean site. Mr. Cansler confirmed this is a clean site.

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to approve the expenditure of up to \$32,516 for additional remediation and groundwater monitoring for 308 Kenwood Avenue, Delmar, as requested by Commissioner of Public Works, Josh Cansler. The motion was passed by the following vote:

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

Absent: None.

The next item was a request from Josh Cansler, Commissioner of Public Works, for adoption of resolution setting water conservation measures/water restrictions. Supervisor Cunningham noted this would go into effect on May 1, 2008. The following resolution was presented for adoption:

RESOLUTION NO. 19

WHEREAS: THE Town Board of the Town of Bethlehem adopted on March 10, 1978, an ordinance to conserve and protect the Water supply of the Town, and

WHEREAS: New York State Department of Environmental Conservation has required the Town of Bethlehem to file a water conservation plan and establish water conservation measures it is necessary to establish restrictions for non-essential use of the public water supply,

NOW, THEREFORE, BE IT RESOLVED, that effective April 23, 2008, the use of the public water supply for sprinkling lawns, shrubs and gardens shall be limited as follows:

**Water use will be prohibited between the hours of
10:00 a.m. to 6:00 p.m.**

“Private Well” signs are available from the Water District No. 1 Office at Bethlehem Town Hall, 445 Delaware Avenue, Delmar, for those houses with private water supply.

Private Well signs must be readable from the roadway and all faucets must be labeled permanently.

Any persons violating any of the provisions of the Town of Bethlehem Water Conservation Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, be punishable by a fine not exceeding fifty (50) dollars,

And be it further resolved that Water District #1 prepare a proclamation for publication and posting it in accordance with the requirements of the aforementioned ordinance.

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

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

Noes: None.

Absent: None.

The following item was to acknowledge the Local Initiative Funding in the amount of \$10,000 to support the work and safety of Bethlehem Police Department from Assemblyman Tim Gordon. Supervisor Cunningham said he was notified by letter that this funding had been secured to finish the funding of bullet proof vests of the Police Department. He noted the Town certainly appreciates Assemblyman Gordon’s efforts on the part of the Town.

The next item was a request from Comptroller, Judith Kehoe, to approve Town of Bethlehem Investment Policy and Investment Report.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to approve the Town of Bethlehem Investment Policy and Investment Report as requested by Comptroller Kehoe. Supervisor Cunningham asked if there were any questions.

Councilman Messina noted he remembers reviewing the report in the past and asked if the auditors made any recommendations about our policy or investments that need to change. Comptroller Kehoe said they did not, noting that our policy complies with State Comptroller’s office suggested policy. She said it is a very conservative policy so New York does not run into the problems other states have had. She said they are happy that we have a policy and that we are following it. She said it is something that the Board needs to annually review and approve.

There were no substantive changes to the policy, only the addition of one additional designated depository at the organizational meeting and then her report of where the funds were invested and how much was earned over the course of 2007. Mr. Messina thanked Comptroller Kehoe.

The Supervisor asked if there were any additional questions. Councilman Hennessey asked how Comptroller Kehoe sees this turn forward and whether she sees the same performance as last year. Mrs. Kehoe said she would anticipate the performance would be lower just looking at where the rates are currently. She said good news is she said it is a good time to borrow.

Councilman Kotary said just one more thing, he wanted to point out he was very pleased to see that there was invest income in 2006 at \$729,000+ and it is \$811,000 in 2007. He said this is a testament to the sound policies we have. He asked how that compares with what was budgeted, noting he could not find it in the report. Comptroller Kehoe said she believes that was above what was budgeted, noting she tries to be conservative with the estimates. She said she can confirm that and get back to him. He said the market is pretty good so far. She said she bid the CDs out for a good portion of the year when the rates were higher and she is now back into the high yield money markets. She said she keeps track of them and takes advantage of them when she can.

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 Administrator, Nan Lanahan, Parks and Recreation Department for approval of appointment of seasonal personnel.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to approve the appointment of seasonal personnel as requested by Administrator, Nan Lanahan, Parks and Recreation Department, at the titles and salaries as listed in the Memorandum dated April 23, 2008. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The following item was a request from Assistant Director of Economic Development and Planning, Michael Morelli, for adoption of resolution pertaining to Training for Planning Board and Zoning Board of Appeals Members. The following resolution was presented for adoption:

Resolution No. 20

**TOWN BOARD
TOWN OF BETHLEHEM**

Resolution Acceptable Training for

Planning Board and Zoning Board of Appeals Members

WHEREAS Town Law Sections 267 and 271, Village Law Sections 7-712 and 7-718, and General City Law Sections 27 and 81 provides that effective January 1, 2007, all Planning Board and Zoning Board of Appeals members in New York State, as well as alternate members of those boards, must complete a minimum of four (4) hours of training each year; and

WHEREAS the above sections of state law provide that a Planning Board or Zoning Board of Appeals member shall not be eligible for reappointment to such board if they have not completed the training required by law; and

WHEREAS the above sections of state law provide that the legislative body of the town, village and city specifies which activities qualify as training to satisfy the state requirements; and

NOW, THEREFORE BE IT RESOLVED, that the following list of agencies, commissions, associations, universities, and other organizations are approved to provide training to meet the state requirements when the training they provide pertains to

municipal planning, zoning, community design, environmental issues, economic development, and local government functions and practices:

- 1) the US Army Corps of Engineers, the NYS Department of State; Department of Agriculture and Markets; Office of the State Comptroller; Department of Health; Department of Transportation; Department of Environmental Conservation; Office of Parks, Recreation, and Historic Preservation; Hudson River Valley Greenway; and,
- 2) the New York State Association of Towns, the New York Conference of Mayors, the New York State Association of Counties, the New York Planning Federation, the American Planning Association, the Upstate New York Chapter of the American Planning Association; and,
- 3) the Capital District Regional Planning Commission, Adirondack Park Agency; and
- 4) the Albany County Planning Federation, Albany County Planning Board, Albany County Soil & Water Conservation District; and
- 5) the Albany Law School Governmental Law Center and Institute for Legal Studies, Pace University and Land Use Law Center, Cornell Cooperative Extension, the Town of Bethlehem Department of Economic Development and Planning and Department of Public Works; and
- 6) on-line planning and zoning training programs offered by the agencies referenced above; and

BE IT FURTHER RESOLVED

that other training activities may be approved on a case-by-case basis by the Town Board, upon the request of a Planning Board or Zoning Board of Appeals member; and, that any new member appointed to fill the last six (6) months of a term shall not be required to have attended training to be reappointed to a first full term, but must thereafter comply with the municipal training policy as provided elsewhere herein; and,

that training received by a Planning Board member or Zoning Board of Appeals member in excess of four (4) hours in any one year may be carried over by the member into succeeding years; and,

all training provided or required shall be at Town cost and shall require the prior approval of the Director of the Department of Economic Development and Planning who shall also maintain a system of tracking the training that individual members complete annually; and such information shall be presented to the appointing authority prior to considering a member for reappointment.

On a motion by, Mr. Messina seconded by Ms. Dawson and a vote of 5 for, 0 against, 0 abstention and 0 absent, this RESOLUTION was adopted on, April 23, 2008.

The following item was to acknowledge receipt of Surplus Dog Monies from Albany County. Supervisor Cunningham said this is money returned from the County in the amount of \$1400.

Supervisor Cunningham next acknowledged a Proclamation in recognition of Municipal Clerks Week, May 4 through 10, 2008. He wished the Town Clerk a happy Municipal Clerks Week.

The Supervisor asked if there was any new business to come before the Board. There was none.

Supervisor Cunningham next noted before the public comment period the following items:

- The Town will be celebrating Arbor Day on this Friday, planting 2 trees – 1 at the town park and 1 here at Town Hall in the parking lot. He invited anyone wishes to join them.

- May 3rd is the Household Hazardous Waste Day at the Highway Garage from 8 a.m. to 1 p.m. He said the list is on the web page and a notice was sent out.
- First Community Clean-Up day was held and it will be ongoing. He said last Saturday along Route 32. The next day will be May 17, 2008 along Route 32 along 9W and along the Delmar Bypass. They will meet at Geist Brothers and they have the materials needed.
- Saturday is the Timothy Moshier Run will be held and the Town will have a team of runners and a print sale at the Town Hall. Warrior I that was used in Iraq which is the Hummer used by CNN will be in the parking lot if anyone wishes to come and see it.
- In a spirit of municipal cooperation, he recognized the Highway Department and Gregg Sagendorph for their help in creating the Slingerlands Elementary School nature path. The Highway Department supplies wood chips and went over and helped with that.

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Supervisor Cunningham asked if there were any other public comment on non-agenda items from the audience. Mrs. Capone said Gregg Sagendorph did a gorgeous job on Delaware Avenue. Supervisor Cunningham noted another accolade for Mr. Sagendorph.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to adjourn the regular Town Board meeting at 6:40 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.

Town Clerk