

TOWN BOARD
APRIL 27, 2005

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 5:30 p.m.

PRESENT: Theresa Egan, Supervisor
Daniel Plummer, Councilman
George Lenhardt, Councilman
Thomas Marcelle, Councilman
Tim Gordon, Councilman
Kathleen A. Newkirk, Town Clerk
James T. Potter, Esq., Town Attorney

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Supervisor Egan welcomed everyone, including the many guests and invited them to join in the pledge of allegiance.

The Supervisor invited anyone with any comments on items on the agenda to come forward. Mrs. Marie Capone thanked the Supervisor for having the library noting it has been a long time since they were here. She asked about the appointment of Town designated engineers and the appointment of Deputy to Economic Development and Planning. Supervisor Egan said that was correct. Mrs. Capone said the Supervisor never talks about their educational background and what they are hired at. Supervisor Egan noted the Board has the information and said it can be discussed when the item is reached. Mrs. Capone said okay, it was indicated to ask first.

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Mrs. Capone next asked about the Capital Reserve expenditure to replace the Town computers. She asked how old the computers are in the building. MIS Director, Jeff Dammeyer, indicated they are 5 or 5 ½ years old. Mrs. Capone asked what would be done with the ones that are being replaced. Mr. Dammeyer said they will be sold as surplus equipment. Mrs. Capone said thank goodness you learned something from Bruce Secor.

Mrs. Capone noted the item about the Maple Avenue sidewalk, asking when they were going to do something about the sidewalk needed on Delaware Avenue between Verstandig and the gas station at Elm Avenue. She said she has been asking for the last 5 years. She said she sees people walking in the street every day. Supervisor Egan said there is a sidewalk on one side of Delaware Avenue. Mrs. Capone agreed, asking about the other side. Mrs. Capone said the traffic is a lot different on Delaware Avenue than Maple Avenue. Supervisor Egan said she would not necessarily agree with that because there is traffic on Maple Avenue with no sidewalk. Mrs. Capone asked if they ever intend to put a sidewalk on that side of Delaware Avenue. Supervisor Egan said she did not think she could answer that question other than to say at the present time there is no plan to put a sidewalk on that side of the road. Mrs. Capone asked why and Supervisor Egan said there are other needs in Town being addressed.

Mr. Robert Jasinski asked what the dollar value was on the computers and how many are being purchased. Mr. Dammeyer said he does not know exactly but there are 103 to be replaced. Councilman Lenhardt said the amount is not to exceed \$185,000. Mr. Jasinski asked if there would be a bid process for them. Mr. Dammeyer said they will buy off of the State contract.

Mr. Jasinski next inquired about the Deputy to Mr. Leveille. Questions included the why and the cost to the Town. Mr. Leveille said the purpose is to replace existing vacancies that are in the department, as was presented in the budget transfer information last month, noting there is no net cost. Mr. Jasinski congratulated Mr. Leveille.

Mrs. Capone said the Board is spending a lot of money here and it is the senior citizens that have to pay for this stuff. She said the Board gets increment every 2 years but the seniors have to live with what they had 10 years ago. She said they have been paying for everything all of their life for everything in here. She asked if they don't count for something. Supervisor Egan said they count for a lot. She said anything on the agenda tonight, there is no net change to the budget for the Town.

The first item was to approve the Town Board Minutes of March 23, 2005 and April 5, 2005.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the Town Board minutes of March 23, 2005 as submitted. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve the Town Board minutes of April 5, 2005 as submitted. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

The next item was a presentation by Brian Kreis, RCS Central School Business Administrator. Supervisor Egan introduced Mr. Kreis. Mr. Kreis said he wanted to go over the budget that RCS Central School is dealing with this year. He said they started out with no cuts whatsoever and been able to reduce that to 17.3 percent for the increase. He reviewed paperwork distributed. He said cuts have been made for a total of 1.9 million dollars. He said the huge differences other than salaries were the Teacher Retirement System changes. He said it is changing from 2.5 percent to 8 percent.

Mr. Kreis said that a ruling was made for the retirement systems monies to be accrued. He said the Governing Accounting Standards Board has said you cannot do the money on a cash basis, the money has to be set aside. He noted the Comptroller previously said this could be done on a cash basis and he preferred it this way. He said that has now been changed. Mr. Kreis also noted BOCES services has risen about 20 percent and transportation has gone up.

Mr. Kreis said reserves have been transferred to help offset the increases that they have experienced. He said they have not been able to put any fund balance toward the budget. He said RCS has been able to keep their levy down for the past 3 years and this was post 911. He noted the budget figures are put together in January and February for the next school year. He said one year they budgeted 3.2 million dollars but only spent 1.5 million because of the delay in the approvals from State Education. He said this caused quite a fund balance and over 3 years it has allowed them to give back over a million dollars to taxpayers and apply it toward the tax levy. He said that is not available this year.

Mr. Kreis said this is a one time spike in the tax levy. He said many of the towns have asked what happens next year. He said if the budget passes the 17.3 percent what happens next year is that they deal with are budget to budget changes. He said it could go down but when it is put together it provides the overall budget. He said there will not be things to deal with accruals and the Governing Accounting Standards Board, noting it was a one time adjustment. He said if they go to contingency, it will not be a one time adjustment. He said if additional programs have to be cut, that could be sports or after school programs or larger class sizes, they will have to rebudget those the next year.

Mr. Kreis noted many school districts are dealing with a much higher budget to budget increase than they are.

Councilman Lenhardt commented that he discusses these things with his wife since she is on the School Board at Bethlehem. He said in the case of the towns, the reserve funds are more or less controlled by the State Comptroller as far as appropriate percentages. Mr. Kreis agreed. Mr. Lenhardt said he understands that school districts are controlled by State Education Department and the percentage that they can keep as reserve is much lower than the percentage the Town can or are allowed to keep. Mr. Kreis noted he did not know how much the Town can keep, indicating they are allowed to keep 2 percent of the entire approved budget. Mr. Lenhardt said that was much lower. Mr. Kreis said the 2 percent is called undesignated reserve and that is not to say that that is all they have. He said they have reserves for tax certinary situations, employee benefit reserves for retirement purposes, and all reserves are set up so that they do not have the spikes they are having now. He said fund balance is a way of relieving some of the tax burden at any given year but having said that, if you do not have the fund balance the tax levy becomes a whole. Councilman Lenhardt thanked Mr. Kreis.

Supervisor Egan thanked Mr. Kreis and asked that he thanked Mrs. Wright also.

The following item was a request from Acting Building Inspector, Mark Platel, for approval of appointment of part time Fire Inspector, effective April 28, 2005. Supervisor Egan said Mrs. Karen Guastella has been working toward this for quite a while. She said Mr. Platel had spoken with her about getting Mrs. Guastella to this position since last year and indicated they have a list of things for her to do.

The motion was made by Mr. Lenhardt and seconded by Mr. Gordon to approve the appointment of Mrs. Karen Guastella of Delmar, NY to the part time position of Fire Inspector effective April 28, 2005 as requested by Acting Building Inspector, Mark Platel. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

Supervisor Egan congratulated Mrs. Guastella.

The next item was to acknowledge receipt of Republican Election Inspectors and Poll Clerks from Republican Chairman and approve appointment. The following resolution was presented for adoption.

The following resolution was offered by Mr. Lenhardt and seconded by Mr. Marcelle:

RESOLVED, that pursuant to Article 3 of the Election Law, the following persons be and they hereby are appointed Election Inspectors and Poll Clerks (as listed on the information on file in the Town Clerk's office) as recommended by the Republican Committee for the term beginning July 14, 2005 through July 14, 2006 as per attached lists.

The resolution was adopted by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

The next item was a request from Director of Economic Development and Planning, George Leveille, to approve the appointment of Town Designated Engineers.

Supervisor Egan noted the Town Board Members received information on this item and asked Mr. Leveille to just quickly summarize. Mr. Leveille said as mentioned, one thing they have heard throughout the past year during comprehensive planning, was some reaction in the public's eye about the development process in the community. He said they went out and looked at how other towns in the area approached development review and found that most used the town designated engineer approach whereby the Town would appoint engineering firms to provide engineering services related to Planning Board review. He said the applicant would engage through the Town for the services and would pay for the services of these engineers. He said a request for qualifications was done in February with 15 high quality responses and a search committee made up of key departments. He said they conducted interviews of 5 firms and at the conclusion of that, recommend Barton and Laguidice, P.C. and Clough Harbour and Associates LLP be officially initiated as designated Town engineers. Mr. Leveille noted representatives from both firms were in attendance.

Mr. Leveille noted that the Town Designated Engineers will be used as appropriate on the larger projects where the developers are accustomed to having professionals doing the review and more than willing to pay in an escrow account for the use of services.

Supervisor Egan noted again this has no effect on the Town budget because this is a cost absorbed by the developers or applicants themselves. She said to address Mrs. Capone, Clough Harbor acts as Town Designated Engineers for Halfmoon, Clifton Park, Malta, Guilderland and Rotterdam and Barton Loguidice is doing work for Niskayuna, Rotterdam, Ravenna, Ellenville, Guilderland and Voorheesville. Mr. Leveille said these are among others. He said with the pending termination of the moratorium they expect an inflow of projects and this will enable them to process them more expeditiously.

Councilman Plummer noted these are well respected firms and asked about the duration for this vote tonight. Mr. Leveille said this would probably be an annual appointment initially. Mr. Plummer asked if that was what this request was for. Mr. Leveille said he thinks that is what it will be noting that there is no formal agreement or contract yet. He said it is a little unusual because there is no consideration in the contract that will be executed. He said his understanding is that typically these are annual and annually renewed at the pleasure of the Town Board. Councilman Plummer said he would support that and thinks it is prudent for the Board to keep it that way. Mr. Plummer also asked with the escrow set aside how that works. Mr. Leveille said an application comes in and is accepted by the Department. He said it is then referred to one of the firms and typically within a week, plus or minus a couple days, the firm would have a proposed scope of services for the review. He said they then discuss that with the firm and make sure they are comfortable with that scope. If they were comfortable, according to Mr. Leveille, then they would go to the applicant and discuss an escrow agreement related to the amount of the proposed scope of services and try to obligate them that they would pay for the review and actually have the funds in escrow. He said the typical turn-around time depending upon the project and the response of the other side, of course, would be a 30 to 60 day period. Councilman Plummer inquired about a smaller project. Mr. Leveille said for smaller projects, the in-house staff would probably be used. He said there are several planners and engineering staff who can do review. He said they would try not to put a burden on the smaller applications. Supervisor Egan said this has already been done, noting Beacon Harbor is an example. Mr. Leveille said this is just a more formal way of queuing up the firms to assist in project review.

Supervisor Egan said in addition it will be beneficial because both Clough and Barton will get familiar with what the new zoning code is and they will be familiar from the beginning. Councilman Plummer commented it should be a lot more cost effective. Mr. Leveille said this would be suspected. Mr. Plummer asked if this was his experience from Albany. Mr. Leveille said personally he has never utilized them in his prior experience other than on a case-by-case basis. He said from they are finding from the other communities, they are only used when they are needed and virtually all the cost is borne by the applicant. He said they will assign a staff person to work with them on a case-by-case basis. Supervisor Egan noted she has spoke with Guilderland and Colonie and their experience is that this is the best way to go.

Councilman Lenhardt said this would seem to save a lot of time because his experience in the past whenever a large project comes in, you go through the same motions you have gone through the designate these 2 firms. Mr. Leveille said there again, some communities have 7 or 8 firms and some have 1 or 2. He said there are a variety of ways to approach this. He said they felt given the fact that we have a strong staff, we could start with 2.

Councilman Marcelle noted that they do not have a score sheet indicating a lot of times the county has a sheet. He asked if there was a score sheet with respect to this. Mr. Leveille said the committee did sit and there were criteria established in the rfp and at the end on a case-by-case basis they did go through each applicant and independently rate each and compared the ratings to determine consensus.

Councilman Marcelle said one of the requirements was the identification of the firms billing rate and asked how the 2 proposed firms rate. Mr. Leveille said they were very competitive. He said in both cases they were at the middle range of the rate schedules that were presented to them. He said that certainly was considered and noted the other side of the coin was efficiency and the rate is important but how much depth is available to us in the firms to look at a variety of issues and their ability to efficiently process them. He said the cost is important but they were certain that these were not out of the ballpark in any way, shape or form.

Councilman Marcelle asked if they had a method by which -- over the course of the year -- evaluation of this operation and how it works, cost wise and efficient wise, will be done with some objective criteria or will it be evaluated by feel. Mr. Leveille noted this was a great question and said they are going to meet with the firms on Friday and the first thing was to get to this point where they could be appointed. He said they want to sit down and develop the protocols and expectation levels, as well as, methods of review that they will all agree to. He said this way everyone will have a common approach to how their effectiveness will be evaluated. He said from what they could tell from the other communities, it seems like a very feel oriented -- we're comfortable with them, they are responsive, they are good public speakers, they are efficient -- you know, these are the kinds of feedback they received when they checked the references. He said he suspects there will be a combination of some very objective, quantifiable criteria and certainly some qualitative.

Councilman Marcelle asked what the criteria was for handling projects with regard to staying in house or being distributed out. Mr. Leveille said they are going to sit and try to establish the thresholds, noting what they do not want to do is impose a burden on small property owners or projects where it is unnecessary to farm them out when the staff can accomplish it more efficiently for the typical review fees. He said the thresholds have not been established yet but they will be working toward those in the weeks ahead. He said their goal will be to utilize their strengths where there are large projects, more complicated and time consuming and they can bring the breadth and depth of their firms to the table. He said they tend to wind up having to focus on one project at a time when there are large projects because of lack of depth. He said these firms can bring in if they need transportation people for storm drainage, they bring people in and coordinate the review under the project leader. He said they are also very concerned about who would be responsible, noting the individuals in attendance are responsible persons who will be with the Town and attend the meetings as requested. He said they will be the lead persons for this engagement. He said that was important to them.

Councilman Marcelle said it sounds to him to be a very good idea. He threw out an idea that may or may not fit into the overall plan, indicating this is just an idea and not to be interpreted in any way to try and step upon the plans. He asked if there would be a way for people to opt in if they thought their project -- he suspects the bigger projects will automatically go the Planning Committee -- would result in shorter time period and money. He asked if there is a way for people to opt out if they wanted to, further asking if there was any type of individual developer who would have any say or control. Mr. Leveille said it is a great question and they do have some who are in the moratorium state right now that are willing to consider taking part in this program rather than continuing

where they were. He said one thing they have to be very careful about. He said they want to become efficient and user friendly but we do not want to try and get the whole Town built up over night either. He said they really have to plan what a reasonable development flow for the Planning Board to handle, for the community to handle and being consistent with the growth projections in the plan so there is some management to the whole development process that needs to be brought in from a policy level and their hope is that the comprehensive plan with help provide guidance there to them. He said what this will do is eliminate uncertainty. He said it will be more predictable in when they will review, when they receive things, what are the expectations to standardize a lot of the review processes. He said that is the uncertainty they are hoping to take out of the process. He said they also want to be able to be clearer with applicants as to what the expectations are. He said these firms are very capable of helping the Town to refine that message and communicate it to the professionals on the other side. He said he thinks they want to become better at doing development review but the goal is not to accelerate the overall development of the Town to be inconsistent with the Town's growth objectives. Councilman Marcelle thanked Mr. Leveille.

Councilman Gordon commented that he has had some conversations with Director Leveille during the interview process and thought it was well done and the outcome was excellent. Mr. Leveille thanked Councilman Gordon.

Town Planning Board Chairman, Parker Mathusa, said on behalf of the Planning Board, they strongly support Director Leveille's position on doing this. He said they think it is critically important for making sure that the expectations – especially in what he calls, the economic and commercial development areas – are well in hand. He said one of the reasons for the moratorium was to be able to manage the economic development growth, as well as, look at some of the other residential. He thinks in the near term he would recommend a couple economic development programs that could be considered. He said not only to test the contractual arrangements and be able to learn that because he suspects once the moratorium is lifted and we begin to move along we would want some of the background work taken care of in terms of terms and conditions. He said it would be prudent to do that over the next month or so as well and use some of the economic development projects as tools to hone those skills and be able to move that. He said the Planning Board strongly supports the Director's position and look forward to working with him and the Town designated engineers. Supervisor Egan thanked Mr. Mathusa.

The motion was made by Mr. Plummer and seconded by Mr. Gordon to approve the appointment of Town Designated Engineers – Clough Harbour & Associates, LLP, Colonie, NY and Barton & Loguidice, P.C., Albany, NY – as requested by George Leveille, Director of Economic Development and Planning. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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Supervisor Egan thanked and congratulated both engineering firms and said they look forward to working with them.

The next item was a request from Highway Superintendent for resolution to maintain sidewalk to be built on New Scotland Avenue Bridge. Supervisor Egan said as many know, there is a project that has started on New Scotland just about at the Town line. She said an issue came up in regard to the construction of a sidewalk over the bridge improvement. She said the matter came down to whether the Town would resolve to maintain the sidewalk, if in fact, DOT agreed to pay for it and build it. She said it made sense inasmuch as the construction project was underway that the sidewalk be constructed with the current construction project. She said Highway Superintendent, Gregg Sagendorph, has provided a proposed resolution in regard to this and DOT is anxious to get this back.

RESOLUTION FOR MAINTENANCE OF SIDEWALK
RESOLUTION NO. 14

RESOLUTION OF THE TOWN OF BETHLEHEM TOWN BOARD

WHEREAS, the New York State Department of Transportation proposes the reconstruction of New Scotland Road (Route 910E) Bridge over the Normans Kill, S.H. 5237, BIN 1-03266-0, in the Town of Bethlehem, and

WHEREAS, The State will include as part of the construction of the above mentioned project the construction of a pedestrian sidewalk on the east side of the structure that carries New Scotland Road (S.H. 5237) over the Normans Kill at the Town's request, and pursuant to Section 10, subdivision 22 of the Highway Law, and will provide for the sidewalk on the structure that carries New Scotland Road (S.H. 5237) over the Normans Kill pursuant to Section 10, subdivision 24 of the Highway Law, as shown on the contract plans relating to the project; and

WHEREAS, the State will provide for the construction of the above mentioned work, as shown on the contract plans relating to the project;

NOW, THEREFORE,

BE IT RESOLVED, that the Town of Bethlehem will maintain or cause to be maintained the sidewalk on the structure carrying New Scotland Road (Route 910E, S.H. 5237) over the Normans Kill as shown on the contract plans, including the control of snow and ice.

BE IT FURTHER RESOLVED, that the Clerk of this Board is hereby directed to transmit five (5) certified copies of the foregoing resolution to the State Department of Transportation.

The foregoing resolution was presented for adoption by Mr. Plummer, seconded by Mr. Gordon and passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

The next item was a request from Director of Economic Development and Planning, George Leveille, to approve appointment of Deputy. Supervisor Egan said the appointment requested is for Michael Morelli to the position of Deputy Director of Economic Development and Planning. She said the resume was provided to the Town Board Members together with an email regarding the appointment. She said Mr. Leveille spoke briefly to what they expect Mr. Morelli to be doing.

Councilman Lenhardt noted Mr. Jasinski asked most of the questions he was going to ask. Mr. Lenhardt noted this is an appointed position, asking about the organization of the department and if the Town Building Inspector and Jeff Lipnicky, Town Planner, will be reporting to the Deputy and then ultimately to Mr. Leveille. Mr. Leveille said he looks at his group as being a team of professionals who are accustomed to working relatively independently. He said they really have not completely defined all the lines of supervision and responsibility. He said clearly this position will act in the Deputy capacity to him and in his absence. He said it is an opportunity they have had and fortunately been able to do this as a revenue neutral item which is fabulous. Mr. Leveille said he worked with Mr. Morelli for many years in the past and noted he is a Town resident and excellent planner. He said he is a certified code inspector and suspects that a portion of his time will be devoted to building and code enforcement issues, as well as, economic development and planning. He said they will be working as a group to really define the lines of communication and responsibility as they move forward.

Supervisor Egan said at the last Board meeting they authorized certain budget transfers that contemplated the appointment of this position. She said as was pointed out at that time it is a revenue neutral position at this point in time. She added that she has known Mr. Morelli for a long time when he was with the City and involved on the other side of him actually and it was sometimes not that they agreed but very professional and he is a person who she and Mr. Leveille have worked hard to convince him that the Town

of Bethlehem is the right place for him. She said he and his family do live in Town. She said she thinks he is anxious to be working at home and looking forward to the 2 minute commute.

The motion was made by Mr. Plummer and seconded by Mr. Gordon to approve the appointment of Mr. Michael Morelli, Delmar, New York, to the position of Deputy, Economic Development and Planning, effective May 31, 2005, as requested by Director, George Leveille, Economic Development and Planning Department. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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Supervisor Egan said they are looking forward to Mr. Morelli's employment with the Town. Mr. Morelli thanked the Board for their support. He said he has worked with Mr. Leveille for a number of years and Jim, as well as, Supervisor Egan. He said he is looking forward to becoming part of the team and hopes he can add some value. He said he thinks it is a very exciting community, a great place to work and look forward to starting next month. Supervisor Egan thanked Mr. Morelli.

The following item was a request from Town Engineer, Erik Deyoe, to accept an easement deed for 54 Gullane Drive, Slingerlands, and deed for fee conveyance portion of right-of-way on Forest Hill Road, Slingerlands.

Councilman Marcelle inquired about the easement for drainage, asking if it was to be considered for drainage only or a possibility of a road to connect Gullane and Forest Hill Road. Mr. Deyoe said it is just for drainage right now. Mr. Marcelle asked if there were any plans on the board to make it a connection. He said he remembered at one time that was talk of connecting these roads.

The motion was made by Mr. Marcelle and seconded by Mr. Plummer for approval of acceptance of deed for drainage easement on 54 Gullane Drive, Slingerlands, New York from Mr. Woodrow J. Beuregard, Jr., Dillon, Montana as requested by Town Engineer, Erik Deyoe. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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Supervisor Egan in regard to the fee conveyance portion of right-of-way on Forest Hill Road, asked if there were any questions.

The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to approve the acceptance of deed for fee conveyance portion of the right-of-way on Forest Hill Road, Slingerlands, New York as requested by Town Engineer, Erik Deyoe. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

The next item was a request from Director, Jeffrey Dammeyer, of MIS for approval of resolution authorizing use of Capital Reserve Funds for replacement of Town computers. Supervisor Egan said there were questions and answers in regard to this item. She said Mr. Dammeyer sent a memorandum with more specific information to the Board Members. She noted the money is in the reserve account and the exact cost is not known so this would be in an amount not to exceed \$185,000.

Councilman Plummer asked when purchases are made off of the State contract if this meets our specifications. Mr. Dammeyer said yes it would and you can customize each personal computer bought. Councilman Plummer asked why there is not a competitive bid or if the State contract enables the Town to avoid the competitive bid process. Mr. Dammeyer said that was correct. He said it is essentially the fact that the State did the competitive bid for everyone and it saves time and the expense of going through it. Councilman Plummer asked when the list is put together, as the one provided, noting a certain number of pcs, this vendor cannot be the only company selling the pcs on State contract list, he assumed. Mr. Dammeyer said IBM is also, noting there have been a lot of hardware failures with the last pcs and IBM is now selling their pc company, it did not make sense to risk going with IBM again. Councilman Plummer noted that is how this is done and asked if this was ever done competitively. Mr. Dammeyer said that was correct.

Comptroller Kehoe said usually when you get the State contract bids, you are getting the value of knowing that you are getting the lower price because every municipality State-wide buys off of the contracts. She said because of the higher volume, you get a better price than if it was the Town going out to bid for that equipment.

Councilman Lenhardt asked what the email application was that is used in Town. Mr. Dammeyer said it is Lotus Notes.

Councilman Marcelle asked what size the current monitors are. Mr. Dammeyer said the current monitors are 16 inch. Mr. Marcelle said there will be 20 inch and 17 inch flat monitors, asking what the breakdown is between 17 and 20 inches. Mr. Dammeyer said there is 8 that will be 20 inches going into communications and also in engineering and planning because with GIS it is easier to read the maps. Mr. Marcelle asked with respect to the 17 inch flat panel monitors what sizes the monitors come in. Mr. Dammeyer said they come in 15, 17 and 20 inches. He said the cost difference is like \$58 between the 15 and 17 inch.

The following resolution was presented for adoption:

RESOLUTION AND PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem in the County of Albany, State of New York has on the 27th day of April 2005, duly adopted, subject to a permissive referendum, a resolution as follows:

WHEREAS, the Town Board of the Town of Bethlehem has determined that it is necessary to fund the purchase of replacement network attached Personal Computers (PCs), and

WHEREAS, it is estimated that the costs of said work will not exceed \$185,000; and

WHEREAS, in recognition of these needs, funds for such purpose are in the General Fund Capital Reserve Fund; and,

NOW, THEREFORE, BE IT RESOLVED that it is in the public interest to complete the purchase of the computer equipment as described above; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the expenditure of the reserve moneys to fund this project up to a maximum amount of \$185,000 and,

BE IT FURTHER RESOLVED, that the Town Comptroller is authorized to expend from the General Fund Capital Reserve Fund the funds necessary up to \$185,000 in said reserve fund; and

This resolution shall be subject to a permissive referendum, as permitted by law.

The motion to adopt the resolution was made by Mr. Lenhardt, was seconded by Mr. Gordon and duly adopted by the following vote:

AYES: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

NOES: None.

ABSENT: None.

The following item was a request from Administrator, Nan Lanahan, Parks and Recreation Department, for approval of agreement for operation of concession stand at Elm Avenue Park. Supervisor Egan said it did go out to bid and there is a recommendation that Thomas Rowlands of Ellisson Enterprises be granted the operation of the concession stand.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the agreement of the operation of the concession stand at the Elm Avenue Park to Thomas Rowlands, Ellisson Enterprises, Delmar, New York.

Councilman Lenhardt asked if 3 proposals coming back was unusual. Mrs. Lanahan said it was. Councilman Gordon asked if this was the same people as last year. Mrs. Lanahan said it was. Mr. Gordon said they have a proven track record and asked if she was happy with them. Mrs. Lanahan said yes and she has been very happy with them.

The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: None.

The next item was a request from Administrator, Nan Lanahan, Parks and Recreation Department, for approval of Seasonal Personnel.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve the appointment of Seasonal Personnel as requested by Nan Lanahan, Administrator, Parks and Recreation Department, and listed on the April 27, 2005 list at the titles and salaries indicated. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: None.

The following item was a request from Highway Superintendent, Gregg Sagendorph, for approval of award of bid for iron castings, plastic pipe and corrugated metal pipe. Supervisor Egan noted there was a long list attached to the Memorandum requesting the approval.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve the award of bid for iron castings, plastic pipe and corrugated metal pipe as listed in the letter dated April 22, 2005 from Highway Superintendent, Gregg Sagendorph, at the bids prices submitted with the bid documents. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: None.

The next item was a request from Gregg Sagendorph, Highway Superintendent, to re-advertise for precast concrete manholes on May 4, 2005. Supervisor Egan noted this was previously advertised and there were none received.

The following resolution was offered by Mr. Lenhardt and seconded by Mr. Plummer:

WHEREAS, the Town desires to advertise for bids for the purchase Precast Concrete Manholes, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 4th day of May, 2005 and that bids be received up

to 2:30 p.m. on the 17th day of May, 2005 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

The following item was a request from Town Engineer, Erik Deyoe, for approval of resolution authorizing Supervisor to enter into agreement with NYS DOT and authorize going to bid for Maple Avenue Sidewalk construction project, phase 1. Supervisor Egan noted this has been on the agenda before in regard to getting money set aside. She said the Town Engineer has tracked down the money at Department of Transportation.

Councilman Plummer inquired if the \$100,000 that the Town is getting from DOT is for the first phase or is it for all 4 phases. Mr. Deyoe said that is for the entire project. Councilman Plummer said this is phase 1 to be done by the end of the summer. Mr. Deyoe said that was correct.

Councilman Plummer next asked about the project on Elsmere Avenue and whether DOT will provide money for that also. Mr. Deyoe said he did not have that conversation yet but he will be calling them. Supervisor Egan said they are going to try and as of right now DOT is saying no.

Councilman Marcelle asked if the overall project was \$800,000. Town Engineer Deyoe said that is his estimate of the overall build-out from Route 9W. Councilman Marcelle said the State is giving \$100,000 of the \$800,000. Mr. Deyoe said that was correct. Mr. Marcelle asked Comptroller Kehoe if this was budgeted for this year. Comptroller Kehoe said there is some money for sidewalk work within the General Fund Capital Reserve so prior surpluses have been transferred in there. She said there is no immediate tax impact for this type of work since they are able to draw down from the reserves and from the use of the State funding.

Councilman Marcelle asked Town Engineer Deyoe if he had a rough time period for the build-out. Mr. Deyoe said he does not know the schedule at this time. He said they are going to complete the design up with Creighton Manning this year. He said they will then go forward.

Councilman Lenhardt said these questions raised issue with him. He asked if we are going to receive the \$100,000 even though this is phase 1 or are they going to give a portion of the money. Mr. Deyoe said his conversations with DOT means they give us the \$100,000 based on the priority of this section of the project.

Supervisor Egan asked if there were any other questions. Councilman Gordon asked about the sidewalk study done around 1998 in Town and whether any of that information is being relied upon. Mr. Deyoe said he had not seen the study. Supervisor Egan said part of that was used when they were determining priorities, asking Highway Superintendent Gregg Sagendorph if this was correct. Mr. Sagendorph said that was correct noting it was a feasibility study for different areas of Town. Councilman Lenhardt said there was a matrix of priorities, like a wish list, and they would meet on a routine basis to discuss it and update it. He offered to provide any material Town Engineer Deyoe might want. Mr. Deyoe said he would check for it and if he did not find it he would contact Councilman Lenhardt. Supervisor Egan said if he did not have it, she thought she might have it.

The following resolution was presented for adoption:

RESOLUTION NUMBER: 16

Authorizing design and construction of sidewalks along NY Route 396 on the

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State Highway System, the performance and funding in the first instance 100% of the costs of design and construction or reconstruction thereof, to be reimbursed by the State and appropriating funds therefor.

WHEREAS, the State of New York has requested the Town of Bethlehem to incorporate improvements (the "State Betterment") to include construction of sidewalks along Route 396, in the Town of Bethlehem, Albany County, with State improvements project to adjacent State highways;

NOW, THEREFORE, the Town Board duly convened does hereby:

RESOLVE, that the Town Board hereby approves such project inclusive of the State Betterment (collectively the "Project"); and it is hereby further

RESOLVED, that the Town Board hereby authorizes the Town of Bethlehem to pay in the first instance 100% of the costs of the Project or portions thereof; and it is further

Resolved, THAT THE SUM OF \$100,000.00 (One hundred thousand dollars no cents) is hereby appropriated from the General Fund Reserve, Capital Projects (Project PG0005) and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that the Town Supervisor of the Town of Bethlehem be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests on behalf of the Town with NYSDOT in connection with the implementation of the Project, and reimbursement of the approved costs associated with the State Betterment, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

The foregoing resolution was presented for adoption by Mr. Plummer and seconded by Mr. Lenhardt. The resolution was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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The following resolution was offered by Mr. Plummer and seconded by Mr. Lenhardt:

WHEREAS, the Town desires to advertise for bids for the Construction of Sidewalks along New York State Route 396 (Maple Ave.) Albany County, New York – Phase 1, Cottage Lane to Existing Sidewalk, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 4th day of May, 2005 and that bids be received up to 2:30 p.m. on the 18th day of May, 2005 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

Supervisor Egan announced that the Estuary Grant for construction of public and handicap accessible fishing platforms and do some work at the Henry Hudson Park was awarded to the Town in the amount of \$83,700. She received this information last week and thanked Administrator, Nan Lanahan, for her help. She also thanked Peter Conway and Clough Harbor, as well as, Saratoga Associates for their help with this grant. She noted this was the largest grant received for Albany County in this round. She said their fingers are still crossed with regard to the LWRP grant application. She said they have been told that they should hear on this grant any day, however, she said they have been

hearing that for two months.

Supervisor Egan asked if there was any other public comment. Mrs. Marie Capone said she was very surprised to see that the dolly was put back in the middle of the road on Delaware Avenue. She said it is very difficult for the fire department, noting the trucks are bigger. Councilman Lenhardt said the fire trucks will knock it over. Mrs. Capone said she told the Board before that if there is an accident, the people can sue the Town.

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The Supervisor asked if anyone else wished to address the Board. Mr. William Kelleher noted 2 weeks ago the Town Board tabled a proposal to have a symbolic contribution to support wind turbines. He said he is not a proponent of it and it would only be a drop in the bucket toward solving the energy problems. He noted recently he read in the newspaper that they are going to put these windmills in the Adirondack Park. Mr. Kelleher said this is terrible to even think of placing these windmills in the sacred Adirondack Park.

Mr. Kelleher gave information regarding the generation of electricity, smoke stacks and plumes. He said they are very rare in the Adirondack Park. He said these will make a negative visual impact.

Mr. Kelleher commented on the fuel cell car demonstration held at the Town Hall. He said the senior citizens was presented with information about these cars. He said the car takes as much as 5 times more energy to drive than the regular car.

Mr. Kelleher said it would take a million of the wind turbines in New York to replace oil for heating oil, for driving cars and nuclear power plants. He said they proposed replacing nuclear power plants and coal fire plants but it cannot happen. He said the fuel cell car is a great big hoax.

Mr. Kelleher thanked everyone for listening to him and distributed information. Supervisor Egan thanked Mr. Kelleher and noted she put copies of his earlier letter in the Town Board Members slots.

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Mr. Robert Jasinski asked about the pump station that was bid for Bender Lane. He said he has not seen any activity and wonders if it is on track and what has happened to it. Town Engineer, Erik Deyoe, said they met with the contractor earlier this week and said a notice to proceed with the contract will be done by the end of the week. He said the work should be started any time now. Mr. Jasinski asked if there was going to be any problem with Bender Lane like closing it off. Mr. Deyoe said he would not see the need to close it in full but there may be partial closure. Mr. Jasinski said you cannot partially close that because this is a one lane bridge. Mr. Deyoe it may be closed intermittently but no full closure. Mr. Jasinski thanked Mr. Deyoe.

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Supervisor Egan asked if there was any other comment this evening. Mr. Michael VanVranken, Commonwealth Drive, Glenmont, NY said he had a question regarding driveways, privacy fencing, a mailbox enclosure and other items. He noted he came several years ago and examined the deeds at the Town Clerk's office and noted the Town owns 50 feet of land from the center of the road. He said the mailbox hutches are placed on the green area and therefore, he assumes they are on Town property, asking if a person places personal or real property on Town owned property do they lose any interest in that personal or real property. He said it is difficult to get an answer to this question although he has been trying to get an answer for quite some time. He asked what are the individual's responsibilities or liabilities. Town Attorney Potter asked if he was referring to putting something in the mailbox. Mr. VanVranken said it was not, the question was if a structure is placed, real property or personal property, on the Town property does the individual in violation of something or do they lose any interest in what they put on the easement. He asked what the law or the policy is that the Town has.

Supervisor Egan said she did not know if they could answer this. She asked

Highway Superintendent, Gregg Sagendorph, about anything constructed in the Town right-of-way is referred to in an ordinance that says no one shall construct anything in the Town right-of-way. Mr. Sagendorph said that was correct, enforceable by the Building Department. Supervisor Egan said this comes up in various ways – mailboxes, fences, various other things. It was mentioned that mailboxes are mandated by the government and they are out by the road so the mail can be delivered. Building Inspector, Roger Griffiths, said this is the first time he has heard of this as an issue.

Supervisor Egan asked Mr. VanVranken if this is an issue with the homeowners association. Mr. VanVranken said the issue is with the Town, he assumes, noting it is really not an issue but a question. He said this is not the just the mailbox, he understands the mailbox itself. He said he lives in a community where there are hutches which have mailboxes in them. He said there are several in the township. He said his question is since he bought and paid for the hutch, does he loose complete interest in this or is the Town have a license that is granted to everyone. He said real estate people put signs in the ground, asking if those signs belong to the Town or liability to the real estate agency. Supervisor Egan said partially it depends on what it is. She said there is a sign ordinance that deals with that. She said with respect to mailboxes or mail hutches, in this case, which house mailboxes, it is beyond the Town right-of-way issue because it is mandated to be there by the post office. She said in regard to his personal interest in it, she did not think that has been given up to the Town.

Town Attorney Potter said he presumed there is a license that says you can have it there. He said the Town is consenting to the use of the area. Supervisor Egan said not written. Town Attorney Potter said it is there by permission because the Town has not removed it. Mr. VanVranken said it is an unwritten license but he was not concerned again with the mailbox, but his concern is with the hutch, the housing or any other structure whether it is 3 feet or 15 feet or 20 feet or whatever. Supervisor Egan said there is a differentiation between what it is and what the purpose is. She said mailboxes and mail hutches that house mailboxes the Federal Post Office kind of usurps any authority the Town would have because mailboxes need to be there. Mr. VanVranken said the post offices does not mandate that you have a hutch. He said they mandate the size and shape and so on of the mailbox but he thinks they may be mute on the other question.

Mr. VanVranken said no one seems to have an answer for this. Town Attorney Potter said he would take a look at it. He said he presumes that it is a verbal license that the Town has allowed under the circumstances by allowing it to remain to the extent that the Town has not asked that it be removed even though the Town may have that right. He said as long as the Town continues to allow it and presumably the Town allows it for the convenience of the mail carriers. Mr. VanVranken said so the owner of the property would not loose interest in the property completely or would they still have ownership and/or liability. Town Attorney Potter said the owner would still have ownership and liability, he believed. Mr. VanVranken thanked Town Attorney Potter and left copies of his information.

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Supervisor Egan asked if there were any other comments. There were none. The Supervisor asked for a motion to adjourn to Executive Session to discuss potential litigation regarding Clapper Road.

The motion was made by Mr. Lenhardt and seconded by Mr. Gordon to meet in Executive Session to discuss potential/possible litigation regarding Clapper Road. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon. Noes:
None.
Absent: None.

The motion was made by Mr. Lenhardt and seconded by Mr. Gordon to adjourn the regular Town Board meeting at 6:44 The motion was carried by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.
Noes: None.
Absent: None.

Town Clerk

EXECUTIVE SESSION

There was no formal action taken at the Executive Session.