

TOWN BOARD
August 27, 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
Kathleen A. Newkirk, Town Clerk
James T. Potter, Esq., Town Attorney

- - -

Supervisor Cunningham welcomed everyone to a regular meeting of the Bethlehem Town Board and asked Building Inspector, Gil Boucher to lead the pledge of allegiance. He thanked Mr. Boucher.

The Supervisor started the meeting with comments on agenda items. Mr. William Kelleher there has been two conflicting letters concerning how far Henry Hudson came up the river. He said he fully supports the Town Historian and the ceremonies that will be held next year at Henry Hudson Park. He provided a copy of the 2 things and let the Board Members make up their own minds about them. Supervisor Cunningham thanked Mr. Kelleher.

- - -

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

The next item was a presentation of the recommendation from the Noise Ordinance Task Force. Supervisor Cunningham noted back in September of last year, they commissioned a committee to study the idea of putting a noise ordinance here in place in Bethlehem. He said Councilman Messina was heading up the committee and he has the recommendations from the committee. He noted Robert Jasinski was also in attendance and he was a member of the committee as well. He thanked Mr. Jasinski and Deputy Chief Tim Beebe also.

Councilman Messina introduced the full committee indicating they number 5. He said it is Tim Beebe representing the Police Department; Gil Boucher who is representing Planning and Building – another important perspective of this; Bob Jasinski, one of the citizen representatives; and Jennifer Defranco. He noted when this began with a Memorandum from Supervisor Cunningham and the Town Board charging the committee with doing various things. He said in sum and substance it is due diligence to find out what was going on in other communities regarding noise ordinances; to determine with as much data as they could get of an ordinance. In these other communities and in our community seemed like a good thing to do both for health and safety reasons and quality of life reasons.

Councilman Messina said they conducted 8 meetings, the meetings were very well attended. He said this has been a good task force to work with. He said they operated as partners in the meetings – each sharing, each participating. He said it was a pleasure to work with the members.

Councilman Messina said in addition to that diligence they did research with Department of State which has a lot of information about local government activity. He said they reached out to the Association of Towns and got information from the Environmental Protection Agency. He said they held 1 public meeting that was, he thought, quite well attended, noting there were about 30 people at the meeting. He said he received over 40 emails on the subject.

Councilman Messina said this whole process could have been done in 1

swipe, noting the Town Board could have said go forth, draft an ordinance for our review and consideration, legal notice, public notice, etc. He said it was done in 2 phases so that they would make sure that they are doing something that is solving a problem and worthwhile. He said he was glad they took the 8 months to do all of the work because it is for that reason that they are in the position to say the task force unanimously recommends that the Town Board direct them to draft a detailed noise ordinance specifically tailored for Bethlehem.

Councilman Messina said they have done about half the work so far and he is glad they have done it because they have learned a lot. He said the other half is now in doing an ordinance that is right for us. He said part of the guiding principles were to not consider a move forward toward regulation for the purpose of regulation sake because no one on the committee and he thought no one in Town wants that. He said the other one was to come up with something realistic that solves problems. He said there are over 100 calls a year that the police and code enforcement officials get that are noise related. He said right now other than moral persuasion, the code folks and Police Department has no methodology for dealing with those and they do not get resolved very often. He said they know there is a problem and they know there is a solution.

Councilman Messina said it is his recommendation to the Town Board, supported by the Committee who is here, that they authorize the Committee to now draft something that can be reviewed. He said there is a lot of work here going forward and what he was asking for was more than a conceptual okay because they should be moving past the conceptual point of view. He said 95 percent of the comments they got in emails and in public testimony were to implement a noise ordinance. He said there are probably 25 different elements that they have to consider in the drafting of the noise ordinance, a lot of detailed work and they are ready to do that. He said the Town Board saying go forth, he would ask that they go forth acknowledge that an ordinance would be desirable in Bethlehem and now it is a matter in detail what does it say and how is it implemented.

Councilman Messina said that was to give the Board a sense of where they are. He said the Committee is here and he asked that they speak up at any time if they had anything to say and it will be addressed any questions that the Board or anyone may have.

Supervisor Cunningham asked if anyone on the Committee wished to add anything. There were none. He then asked if the Town Board Members had any questions.

Councilman Kotary said he had a couple questions. He thanked Councilman Messina and all the committee members. He asked about the comments received, the 40 some emails and comments from the public meeting, inquiring if they have been compiled that and if it can be shared. Mr. Messina said he has not shared them. Councilman Kotary asked if Mr. Messina provided those. Mr. Messina said he has not and he did not because, frankly, even though it was discussed and he said as this moves on he would share those, that was not one of the charges – to share all those things. He said he had most of them with him in hard copy and he could read them. Supervisor Cunningham said he did not think they wanted to read them at the meeting. Mr. Messina said he did not think so either since it would take a long time. He said by and large there were 2 comments against noise ordinance out of the 40 and even there it was more because of a lack of understanding about what the ordinance meant. He said also because the ordinance could also be used in a situation where a person feels a noise being made does not violate anyone's rights.

Councilman Kotary said 2 things, one was that he would like to see the comments and two, these comments should be included as this moves forward as part of the public record and especially the comments given at the public meeting. He said in terms of some specifics, it was mentioned to define the noise problem, getting into the science of ordinances, etc. -- he wondered if detail can be given on a few of the conclusions that they came to, more between the research and doing some more research and best practices not only throughout New York State but

other states as well. He said just to get a little sense of high level best practices or where they think this is going in terms of defining and solutions.

Councilman Messina said he did not look at other states. He said he thought it was cost effective to look at New York State. With respect to what is going on nationally, Mr. Messina said, they did review some information from the Environmental Protection Agency and one other organization who maintains a website on such things nationally but they focused here. He said they had about 15 different ordinances and they seem to break down in sort of 2 levels, very simply 1 or 2 pagers that did not have much detail, that did not have many parameters about the noise issue, that had very few exceptions for communities and those that were much more rigorous. He said when he talked to counsels at the Association of Towns and Department of State it was their feeling that to be legally sustainable even though this is done well and well is the way Guilderland has done it, you don't get the legal challenges very often because you can demonstrate quickly what the issue is and what the problem is. He said the Guilderland noise ordinance was pointed to by a couple of different entities as being pretty comprehensive and well done.

Councilman Messina said there are a lot of definitions in the noise ordinance and the Town Board was given, when this was first started, a copy of the Guilderland ordinance and there are probably 20 or 30 different definitions that have to be included in the ordinance to have specific particularity so that it can be upheld in court if ever. He said the types of things that are regulated fall into these general categories – sound reproduction systems; loud speakers; public address systems; believe it or not animals and birds, dogs; (he did not think cats came up on the radar screen but certainly dogs); loading and unloading of vehicles and trucks; use of equipment; weekend folks working and what that all means; construction activity and the level of sound and particularly how that relates to impact on neighbors; the use of farm equipment and also the exceptions that you would want there because of the farming activity; and a range of many, many other things.

Councilman Messina said what he tried to point out in his initial comments was, it is the language surrounding these now that takes real detail in terms of what does that mean for us in this Town.

Councilman Kotary said also in terms of the comments that were received both written and oral in the public meeting, boil it down for the Board in terms of those who are supporting what is generating the complaints or their support. He said what is the most common issue out there with regard to noise. Mr. Messina said there are 2 or 3 or 4 areas indicating he did not think one was more prevalent than the other. He said sometimes it is the issue of inconsiderate neighbors and he will not put a spin on whether there is an intention to be inconsiderate but a situation where noise from one property is troublesome to noise at another property. He said the other thing relates to how equipment is used sometimes. He said for instance, lawn mowers that are left operating at a given location without being used to mow a lawn and what can be done about that. He said sometimes the issue of wind noise is generated not so much as what the noise is. He said trying to get construction work done, people work on their lawns, contractors come in but what time is that done. He said believe it or not, things like massive uses of wind chimes and the noise that they generate and the impact on others. He said parties and when they are conducted or not; activities that go on at some of our quasi governmental and governmental areas – for instance, within fire departments and events that are held there and noise coming from that – and who approves that and how does that get done. He said there are a lot of different issues here and Mr. Potter once commented that this is a very complex area to get into with a lot of variables. He said there are and those are the primary things that he hears, as well as, off road vehicles.

Councilman Messina said he was with a police officer out there learning what they do during rounds when they had a call just like that. He said at that particular time, the only methodology that would be used and the officer pointed it out was boy if we could do something about the noise, at least they would have some method of dealing with this. He said this was just to give a sense of what this

is all about.

Councilman Kotary asked Committee Member, Robert Jasinski, since he has been through the entire process, if he would share his perspective on where he sees a noise ordinance being effective and just his thoughts on what he has learned. Mr. Jasinski said he more or less went into this with the fact that he could not see why we really needed a noise ordinance. He said first off, he lives in an area where he has 200 feet on one side and 300 or 400 on the other side. He said any problems with his neighbors, he said he has been able to knock on their door and inform them but as you listen to the people and some of the problems and the problem is you have so many houses in the Town of Bethlehem that have very small driveways or narrow between the houses, you are getting a different type of resident that are moving in. He said he found that there is starting to be more rentals in the Town. He said he thinks you get less people that are Town oriented to the fact of a good Town, thoughts of your neighbor and everything. He said as the public meeting was held it has come up that there is actually been harassment but in order to go forward and try and stop it, you have to go to court – he believes Mr. Potter can tell everyone – have to sign a complaint and get a lawyer and if it didn't work out in your benefit, you could probably be sued, you know, because of your complaint.

So, Mr. Jasinski said you have these problems that have taken place in Town and listening to the public meeting and everything else, he has changed his mind. He said we do need some form of a noise ordinance but as Councilman Messina said, it is the individual particulars that are there. He said they have learned a lot and talked about the ambient background noises, decibels and turned around and looked at other towns and everything else noting quite a few of them have it. He said the idea now is to go forward and do a proper noise ordinance and as noted, now is the time. He said this is not going to be done in a month anyway. He said if it is done by spring the Board will be fortunate.

Mr. Jasinski said unless the Town Attorney has any to add, he asked if his statements were correct. Town Attorney Potter told Mr. Jasinski said he is always impressed by his statements. He did note that he was absolutely right, absent a noise ordinance it is very difficult to deal with a noisy neighbor. He said the police are limited in what they can do. He said you could fill out a complaint for criminal harassment but the standard is very high for that and he thinks it would be difficult in a criminal round to deal with a noisy neighbor. He said there are potential civil remedies, noting you could sue the neighbor for a nuisance action and is expensive and time consuming. He there are high thresholds and appropriately so. Mr. Potter said there are difficulties in dealing with a noisy, inconsiderate neighbor with the state of the law as it currently exists.

Mr. Jasinski said what you have to consider also is everybody is not equal. He said you may have just someone who has inherited their house, making a minimum wage and the guy next door might be a lawyer, a doctor, an Indian chief and has quite a bit of money to fight a charge. So, he said once you get into that realm, the guy who is making a small wage and making ends meet, he is just pulling his hair out and not sleeping at night. He asked if that answered the questions. Councilman Kotary said it did.

Supervisor Cunningham asked a follow-up to the Town Attorney's comments and it will not be for Mr. Jasinski but more toward the Assistant Chief of Police Beebe. He asked if there is an ordinance for disturbing the peace. Assistant Chief Beebe said we do not. Mr. Cunningham said what is the difference between an ordinance disturbing the peace and a noise ordinance. He asked if the would be pretty much the same thing. Assistant Chief Beebe said it probably would be the same. Councilman Messina said they did research on that and some communities had ordinances about nuisance and disturbing the peace. He said the more he researched it the more he found they were not using them and they are being struck down because they are arbitrary and capricious and they could not make them stick. He said that is why you see more focus on noise ordinance because the one thing you can look at it and say we can identify that and that is real rather than one person's nuisance is another person's pleasure.

Councilman Messina said he did not answer the other part of Councilman Kotary's question. He said with respect to not just a number and only 2 or 3 comments that raised questions that weren't fully positive and he will make copies of those. He said the 1 or 2 comments really pretty much just generally, if you are going to regulate make sure you do it sensitively and don't have regulations where they are not needed – that sort of thing. Town Attorney Potter added that the devil is always in the details on these. He said if there is going to be the creation of any ordinance that carries criminal penalties, one of the potential challenges is that it is void for vagueness. He said it is very important to define exactly what it is that you are prohibiting and that is not an easy thing to do at all. He noted it is not impossible but it is a daunting task to develop a sustainable noise ordinance. He said it is very difficult when you add in subjective criteria – things like nuisance, annoyance and what is an annoyance to one person may not be an annoyance to another. He said this is something that is not going to be able to be debate the standard at this time but as they go forward. He said that is something everyone will have to be cognizant of.

Councilman Hennessey said he was not on board when this started and asked exactly when did the task force come together. Councilman Messina said the Memorandum that the Town Board issued was dated September 7, 2007, so it is close to a year. He said he and the Supervisor had a couple conversations before that resulting in his issuance of this Memorandum. Mr. Hennessey asked about the other 18 ordinances and whether they were reviewed from this area. Mr. Messina said he does not have copies of all of them at the meeting but he has read all of them. He said some of the other members of the task force have read them also.

Councilman Hennessey asked if Mr. Messina had copies of those that can be provided to the remainder of the Board for review to make a determination on moving forward. Councilman Messina asked how many trees should be chopped down, noting there is a lot of work and if the Board wants all the background he could make it available to the Members for access. He said part of their charge was to give the Board something to work with rather than have you do all the work. He asked if it would be it was okay to make it available. Mr. Hennessey said he thought in terms of moving forward for the Board, it is important to have all the information in front of them as to what the options they want to proceed on will be. Supervisor Cunningham asked if they were available electronically. Mr. Messina said he did not, they were given to him in hard copy. He said if someone can scan them here at Town Hall he could do that but one way or another he would make it available.

Councilman Messina said the Board will find these things go from alpha to omega, soup to nuts, 2 pages to 25 pages. Mr. Hennessey said it is getting an understanding of what the flavor is out there, the different options to proceed, what those could be that drafting a piece of legislation that fits within the confines of what is appropriate for this Town. He said they will be better informed by knowing what is done in other towns in the area. He said besides just the Guilderland example, which may be fully appropriate, they may need to see more of what else is out there. He said they may take a different tack on it than they do. Mr. Messina said the Board should know that some of the criteria they looked at as far as what might fit best, was the population in the town, the demographics, some of the land use activities that are going on. He said at least they tried to take some cuts that way on it when they looked at it.

Councilman Dawson commented that she appreciates the work that Mr. Messina and the task force have done. She said she, for one, did not want to go through all the material and all the 8 months of work they have already done and was charged by the Town Board. She said, perhaps, what would be helpful is before they actually get to reviewing a draft proposed noise ordinance for the Town, there may be a middle step of a summary or written – couple page piece – that would summarize the types of things that have been mentioned. She thinks that would meet everyone's needs for the details. She said what she heard Town Attorney Potter warn is to be careful to start taking on something that is going to be extremely difficult if not near impossible to appease everyone. She said she knows the one public meeting that she attended, it was very obvious that the people who

came were in favor of it, overwhelming in favor of it on a very practical, day to day level. She indicated there will be a public hearing and will get to hear again, those people who might speak pro and con.

Councilman Dawson said she thinks if there was some kind of a written summary of the findings and conclusions and a recommendation from the task force, the Board could move forward. She said she is not even sure what exactly the ordinance is going to be legally. She said she thought that would help everyone.

Councilman Messina said he does think that is out there already. He said the document that they did for the public meeting had a lot of data in it, more than we articulated there but people did walk away with this. He said they posted it on the website. He said he thought that had a lot of it. He said in terms of their recommendations, they are embodied in the Memorandum that was given out for this. He said he thinks if there are other things that are needed, that would help. He said he thinks it is there and it is public.

Councilman Dawson said she has read that because she was at the meeting and she is ready to go forward.

Councilman Kotary said he thinks in picking up on what Councilman Dawson suggested, rather than getting copies of everything, a compilation of what has been received including what the committee uncovered and what was found in the recommendations. He said he would like to see a summary of the comments and to get more of a flavor of exactly what people are saying. He said maybe that is all it is like a bullet point excerpts of pro and couple of con to get more of a sense of what the people are saying. He said it seems the Board is prepared to make a recommendation to continue forward.

Councilman Kotary asked the Supervisor if it was okay to offer up a couple suggestions and Councilman Messina, if he may, the work that everybody has done he thanked them for. He said there was a lot of work and a lot of time spent on this. He said as he is hearing about the extent to which the potential noise could have an impact on certain areas – farming, construction – he thinks to get a little more input – he suggested that they continue with the noise committee continue and expand the committee maybe to 9 people, bringing on a few more people. He said perhaps somebody from the Board or another person from one of the departments and to get at least 2 or 3 more residents – perhaps even someone from local construction industry, maybe someone from the farming community but again to have a few more residents or business owners who may be impacted again to get their perspective as well.

Councilman Kotary said the second suggestion would be to strongly suggest they the Board continue to look at other communities and not just the ones that we have but continue to utilize this time to expand as has been suggested by others. He said the third would be to set up a time line which he was sure would be part of the recommendation looking at 3 to 4 months that by the end of the year the Board would have a draft or to have something to look at and that would give enough time, as Mr. Jasinski suggested, that if it is hoped to have an ordinance by the spring that there is some time in between to dialogue. He said to perhaps have another committee sponsored public meeting before they get to the public meeting that would be required by law for the ordinance. He said hopefully to wrap things up by spring. He asked if that suggestion of a time frame make sense to everyone. Councilman Messina said the time frame is realistic and is in favor of more public participation on committees but those things take time to do too. He said he likes the notion of that sort of participation because in drafting, they may need some different people there. He said there is a gentleman, Mr. Bagdon who also volunteered his time to the committee, pro bono. He said he is a noise, sound, engineer and expert so he would be one of the people that could be brought in. Councilman Kotary agreed. Mr. Messina said changing the composition, doing a time line, are all realistic ideas and that would be done.

Councilman Kotary asked if everybody else was interested in carrying on

with the members of the committee. He asked the current members if they were willing to stay on the committee. The members – Mr. Jasinski and Jennifer – agreed and Mr. Kotary thanked them. He said he thinks it is important to keep the core that started from the beginning. He said if there are different opinions, bring a few more people, an expert on noise; maybe someone from the construction community or from again some of the local businesses that might be producing some of the noise to get their perspective and maybe just a couple more residents.

Councilman Messina said his comment on the committees was that one of the thoughts they had and Supervisor Cunningham and he had discussed this earlier and they have done this to a certain degree, as there is need officially making someone a member of the committee, they would bring them in. He said they can participate for their expertise and that is another approach that could be used too. Councilman Kotary said actually on the committee membership, he had one other thought and he will throw this out to everyone, would it be wise to have somebody on the Zoning Board or Planning Board to get some other perspective. He said when you are looking at a noise ordinance you are looking at the level of noise and nuisance, you are also looking at time frames – what times are certain noises acceptable but would there also be a look at noise in locations. He said for example, a certain decibel across the street at Town Hall might be different than if you live right next to CSX. Town Attorney Potter said not only that, if he remembered the Guilderland ordinance correctly, there is an opportunity to apply to their ZBA for a variance. Councilman Messina said there are variance and enforcement provisions in there and they were commented on in the Memorandum. He said those are one of the areas that they would have to look at and say what does variance and enforcement mean in Bethlehem. He said he thinks that has to do with being consistent to the other statutes in that regard. He said the issue of ambient noise and decibels is one they very much have to get into.

Supervisor Cunningham made a recommendation that as the evening is moving on, that Councilman Messina and Councilman Kotary would put all the ideas in the form of a motion, they will revamp the original charge at the next meeting. Councilman Messina said that was fine but was he hearing the sense of the Board is moving toward now implementation is what is on the agenda. The Supervisor said yes he would agree with that and that there is no objection. He said he thinks there is concern and noted he has concerns on his part also. Mr. Messina said he is fine with getting together and drafting a motion.

Mr. Jasinski said one thing that he wants the Board to understand. He said they tried to put some safety things into this. He said in other words, they are not going to ask the Building Inspector or the Police Department to go out on a noise and decide how many decibels or the noise is loud it is 3 a.m. or something and issue a ticket. He said no, they have pushed to have a safety there, in other words, a normal information that there is a noise ordinance, you are exceeding it and request that they cease and desist. He said if someone has to go back the second time, a notification will be done as to the fact that they have not obeyed it or something. He said there is a number of safeties they have pushed for. He wanted the Board to understand that it is not just go out and tell someone they are making noise and here is a ticket and wind up in court. Supervisor Cunningham thanked Mr. Jasinski.

Supervisor Cunningham said he appreciates the committee's hard work on this and look forward to the next phase of this project.

The next item was a request from the Supervisor to appoint Judith Kehoe to the position of temporary part-time effective September 1, 2008. Supervisor Cunningham noted at the last meeting, the acceptance of the resignation of Judith Kehoe was done but they still had not completed the Comptroller search and being in the middle of budget cycle and the Town does need to have a Comptroller, Mrs. Kehoe has graciously made herself available to work for the Town on a part time basis and the School District has agreed that it is okay.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to approve the appointment of Judith Kehoe to a temporary part-time position of acting Comptroller effective September 1, 2008 as requested by the Supervisor. The motion was passed by the following vote:

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

Supervisor Cunningham thanked Mrs. Kehoe for being available to the Town.

The following item was a request from the Director of Management Information Services to authorize the Supervisor to sign a non-disclosure agreement with National Grid for receipt of GIS data.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve the request of Jeff Dammeyer, Director of Management Information Services, to authorize the Supervisor to sign a non-disclosure agreement with National Grid for receipt of GIS data.

Councilman Messina said he looked through the document and asked if Mr. Dammeyer was in attendance. Mr. Dammeyer said Mr. Baum, GIS specialist, was actually handling this with Town Attorney Potter. Supervisor Cunningham said if it is a legal issue, Mr. Potter has reviewed the agreement. Mr. Messina said the non-disclosure provisions are pretty tough, pretty rigorous. He asked if the Town is requesting National Grid to provide information for a particular reason and the information is confidential or is this a bill that comes in or what. Town Attorney Potter said a lot of the language is there because we want to make sure that the information is not subject to release under the Freedom of Information law. He said as he understands it, National Grid will be giving to the Town information about exactly where their infrastructure is located and will assist the Planning Department in dealing with people coming in with building applications. He said however National Grid does not want that information public and available because of the potential for a terrorism threat. He said as a consequence, the language is in the agreement that defines this as critical infrastructure for purposes of FOIL and it also puts an obligation on the Town that we will not inadvertently disclose this and we agree to indemnify National Grid in the event that it is disclosed and they suffer damage by reason of it. He said the Town will have to be vigilant in the acceptance of this information. Councilman Messina thanked the Town Attorney.

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 the Administrator of Parks and Recreation Department to accept a donation of \$1,000 from Wal-Mart Foundation.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to approve the acceptance of a \$1,000 donation from Wal-Mart Foundation as requested by Nan Lanahan, Administrator, Parks and Recreation Department. 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 the Administrator of Parks and Recreation Department for approval of resolution authorizing the Town of

Bethlehem to apply for a grant from NYSDEC for a Quadricentennial event at the Henry Hudson Park on August 16, 2009. Councilman Hennessey asked for an explanation what is being proposed. Parks Administrator Lanahan said the Quadricentennial Committee has been meeting for several years now putting together a whole year long series of events kind of culminating in this event. She said they are looking to make it a festival for families throughout the area to have children's activities, period performers, costume people, food of the era, historical exhibits, historical tours. She said they are in the early planning stages of it specifically. She said they are trying to make it a pretty large scale event and hopefully if this funding is secured, all the activities will be done.

Councilman Messina asked Mrs. Lanahan about the \$50,000 if there is discretion in this granting process to come back and offer \$40,000 or something like that. Mrs. Lanahan said they do and \$50,000 is the maximum grant. Mr. Messina said great and thanked Mrs. Lanahan.

Supervisor Cunningham thanked Mrs. Lanahan also.

The following resolution was presented for adoption:

RESOLUTION NO. 33

Resolution

Authorizing the submission of a grant application to the NYS Department of Environmental Conservation's Hudson-Fulton-Champlain Quadricentennial Grant Program pertaining to the "Bethlehem Voyage 400-A Festival Commemorating Henry Hudson's Journey in 1609" at Henry Hudson Park on August 16, 2009.

WHEREAS, the Town Board of the Town of Bethlehem wishes to participate in the Quadricentennial events in 2009 and,

WHEREAS, the Town of Bethlehem with 10 miles of Hudson River shoreline and a riverfront park, Henry Hudson Park, would be an ideal setting for a festival commemorating Henry Hudson's voyage in 1609 and,

WHEREAS, the Town Board is applying to the NYS Department of Environmental Conservation Quadricentennial grants program to conduct said festival on August 16, 2009 and,

WHEREAS, the amount of the grant request is not to exceed \$50,000

NOW, THEREFORE LET IT BE RESOLVED, that John Cunningham, as Supervisor of the Town of Bethlehem of Bethlehem, New York is hereby authorized and directed to file an application for funds from the Hudson-Fulton-Champlain Quadricentennial Grant Program in accordance with the Hudson-Fulton-Champlain Quadricentennial Act, in an amount not to exceed \$50,000, and upon approval of said request to enter into and execute a state assistance contract with the Department of Environmental Conservation for such financial assistance to the Town of Bethlehem for the "Bethlehem Voyage 400" festival.

The motion to adopt the resolution was made by Mrs. Dawson and seconded by Mr. Kotary and duly 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 Administrator, Parks and Recreation Department to authorize the Supervisor to sign an agreement to accept a \$5,000 grant from the Community Foundation Standish Family Fund with the funds being used for fencing on baseball field No.5 at Elm Avenue Town Park. Supervisor Cunningham said for anyone who is not familiar, this year there was a new league, the Mickey Mantle League, started up in Bethlehem. He said they were not up and now they are back in operation. He said they have done an incredible amount of work on field no. 5 and have secured a grant for \$5,000 to get the fence up.

The motion was made by Mrs. Dawson and seconded by Mr. Hennessey to authorize the Supervisor to sign an agreement to accept a \$5,000 grant from the

Community Foundation Standish Family Fund with the funds being used for fencing on baseball field No. 5 at the Elm Avenue Town Park as requested by Nan Lanahan, Administrator, Parks and Recreation Department. The motion was passed by the following vote:

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

Mrs. Lanahan, Parks Administrator, said she wanted to publicly thank the Bethlehem Mickey Mantle for their work on this. She said they prepared the grant all on their own to provide funds to the Town to put up some fencing along the player benches and add to the improvements that they have made this year to the field. She acknowledged Judy Curry who was at the meeting. She said they have been a real driving force in getting this going. Supervisor Cunningham thanked Mrs. Lanahan and Mrs. Curry.

Councilman Kotary asked to make a comment. He said after they have spent the last couple weeks in preliminary budget meetings, he thinks everyone can appreciate the positive impact that grants have and we strongly encourage all of the department heads as they always do to continually look for grant opportunities at the State, Federal and County level if they apply even in some cases there is private funding. He thanked Administrator Lanahan noting there are a lot of grant opportunities and knows she is looking for them and successfully get. He said he wanted to send the message out to keep looking for these opportunities whether it is \$1,000, \$2,000 or \$20,000 potentially, it all adds up. He said there are a lot they we have that we would like to do but may not be able to do unless we get the grants. He is encouraged to see these items whenever they are on the agenda.

The following item was a request from Town Planner to acknowledge receipt of the proposed amendments to the Town Zoning Law, Zoning Map and Subdivision Regulations, adopt a resolution identifying the proposed amendments as a Type I action per the provisions of SEQRA, declaring the Town Board as Lead Agency and referring the amendments to the Town Planning Board pursuant to the Town Zoning Law.

The following resolution was presented for adoption:

RESOLUTION NO. 35

TOWN BOARD

TOWN OF BETHLEHEM, NEW YORK

SEQRA LEAD AGENCY COORDINATION RESOLUTION

August 27, 2008

WHEREAS, on August 24, 2005, the Town of Bethlehem adopted a Comprehensive Plan in accordance with Town Law §272-a; and,
WHEREAS, on August 24, 2005, the Town of Bethlehem adopted amendments to its Zoning Law and Subdivision Regulations in order to implement the Comprehensive Plan; and
WHEREAS, at the August 24, 2005 Town Board meeting, the Town Board directed Town Staff to continue to review the amended Zoning Law and Subdivision Regulations for additional refinements; and
WHEREAS, the Department of Economic Development and Planning proposes further amendments and technical corrections, to the adopted Zoning Law and Subdivision Regulations, that are consistent with the adopted 2005 Town Comprehensive Plan/GEIS; and
WHEREAS, the proposed 2008 amendments include revisions to the adopted Zoning Map that change the zoning district classification "affecting 25 or more acres" of land therefore qualifying the amendments as a Type 1 Action under the State Environmental Quality Review Act (ECL, Article 8) and its implementing regulations (6 NYCRR Part 617) (collectively "SEQRA"); and
WHEREAS, the adoption of changes to the Town Code is an activity that is solely within the jurisdiction of the Town Board, thereby making the Town

Board the only potentially involved agency for the purposes of adoption of the amended Zoning Law and Subdivision Regulation; NOW, THEREFORE, BE IT RESOLVED that, in accordance with 6 NYCRR 617.6(2) and (3) of the State Environmental Quality Review Act (SEQRA) the Town Board hereby declares the proposed amendments to the Zoning Law and Subdivision Regulations to constitute a Type 1 Action and does hereby declare itself to be the lead agency for the purposes of coordinating the SEQRA review process.

BE IT FURTHER RESOLVED, that the Town Board hereby determines that the proposed zoning amendments are applicable to lands located in an agricultural district, but such action is not subject to the provisions of the Agriculture and Markets Law.

BE IT FURTHER RESOLVED, that copies of the Part 1 Environmental Assessment Form and the proposed Zoning Law and Subdivision Regulation amendments be sent to the Town Planning Board and the Albany County Department of Planning.

On a motion by Mr. Messina, seconded by Mr. Kotary and a vote of 5 for, 0 against, abstention and 0 absent, this RESOLUTION was adopted on August 27, 2008 .

Supervisor Cunningham explained there will be some minor zoning changes here in Town to be more consistent with our plan. He said those zoning changes will be coming forth but they needed to schedule the public hearing. He noted the next item was a request from Assistant Director of Planning and Development to set a public hearing on the proposed zoning amendments for September 24, 2008.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to set a public hearing on a proposed Local Law amending the Code of the Town of Bethlehem, Chapter 128 Zoning, Zoning Map and Subdivision Regulations from September 24, 2008 at 6:00 p.m. as requested by Michael Morelli, Assistant Director of 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 Senior Planner to approve Amendment No. 7 to Building Project Approval No. 29, Terramere Planned Development District (PDD) Nos. 2 and 7; to allow the construction of a deck at 6 Whitman Common, Slingerlands.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve Amendment No. 7 to Building Project Approval No. 29, Terramere Planned Development District (PDD) Nos. 2 and 7, to allow the construction of a deck at 6 Whitman Common, Slingerlands. 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 Deputy Commissioner of Public Works to accept an all purpose easement and right-of-way for 48 and 50 Hudson Avenue, Delmar.

The motion was made by Mrs. Dawson and seconded by Mr. Hennessey to accept an all purpose easement and right-of-way for 48 and 50 Hudson Avenue, Delmar from ARL Land Development LLC, Albany, New York as requested by Eric Deyoe, Deputy Commissioner of Public Works. The motion was passed by

the following vote:

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

Noes: None.

Absent: None.

The next item was to acknowledge receipt of the Quarterly Franchise Fees from Time Warner Cable in the amount of \$119,697.54 for the period April through June 2008. Supervisor Cunningham said thank you to the residents of the Town of Bethlehem who have cable tv.

The next item was a request from Fleet Manager to approve the disposal of surplus vehicles at auction by Northway Auto Exchange, Inc., Clifton Park, New York.

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to approve the disposal of surplus vehicles at auction by Northway Auto Exchange, Inc., Clifton Park, New York as listed on the Memorandum dated August 20, 2008 as requested by Howard Hyer, Fleet Manager. 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 the Justice Court Clerk to apply for a grant no to exceed \$30,000 from the Justice Court Assistance Program.

The following resolution was presented for adoption:

RESOLUTION NO. 34

Resolution To Authorize The Town Of Bethlehem To Apply For A Grant Through the Justice Court Assistance Program

WHEREAS, funding is available to eligible municipalities under the Justice Court Assistance Program, wherein eligible projects can receive up to \$30,000 in grant monies; and

WHEREAS, the Town of Bethlehem has determined that additional Court supplies and equipment will provide enhanced services to the Town's Justice Court, and is a qualifying purpose and therefore an appropriate use of grant proceeds; and therefore be it

RESOLVED, that the Town Board of the Town of Bethlehem does hereby authorize the Supervisor to file an application for grant funding under the Justice Court Assistance Program.

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

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

Noes: None.

Absent: None.

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

The Supervisor made the following announcements:

- The Bethlehem food bank on September 2, 2008 for the 3rd year in a row the Delmar Florist will be providing residents who make a donation to the

Bethlehem Food Bank a dozen roses if you stop by the Delmar Florist. He said it can be a food donation or a monetary donation. He thanked Barbara Ostroff of Delmar Florist for providing this opportunity for residents and supporting the food bank. He asked everyone to please take advantage of this opportunity noting there will be 200 dozen roses available.

- Pool is closing September 1, 2008 for the 2008 season noting it is next Monday and if you have not swam yet and you want to get a swim in, this is the time to do it.
- Community clean-up day will be held September 20, 2008 which will be the second to the last one. He said they have not identified the site yet. If anyone is interested in volunteering, please contact Debbie Kitchen. It is held the 3rd Saturday from 9 a.m. til noon, however, they usually do not go until noon.
- 20/20 project is continuing and the next meeting will be on September 19, 2008 at 7:30 a.m. at the Elsmere Fire Department.

- - -

Supervisor Cunningham said the meeting is now open to public comments on non-agenda items. Mr. Norman Moran said he was a taxpayer and resident of the Town for 31 years. He said in all those years all the political parties in this Town have respected the Town law and did not deface public property with campaign signs. He said one of the politicians whose signs are all over the Town property pressed charges against a person for the removal of his signs from a lawn of a Colonie resident but apparently he does not think it is wrong for him to break the laws of the Town of Bethlehem.

Mr. Moran said the Town of Bethlehem, Town Code, 128-59 entitled signs under b4 states 'no sign other than an official traffic sign shall be erected within the right-of-way of any of the public streets or highway. He said he called the Supervisor and asked him to enforce the requirement. He said he also talked to Town Attorney Potter about enforcing it and both disagreed. He said the Supervisor does not own the Town of Bethlehem. He said he was elected to uphold the laws of this Town and not to carry out his personal desires.

Mr. Moran said if the people of this Board want the people to inspect and obey the laws, the Board has no alternative but to vote to enforce this law and have the political signs removed now. He said the Town here has spent taxpayer money to take out Terry's restaurant in Glenmont to court to make them remove a sign. He said the Town cannot pick and choose when they will enforce the law. He said he wanted the Board to act right now and have those signs removed. He said he awaits the Board's decision.

Town Attorney Potter addressed some of the comments. He said the Zoning Law restricts where you can put signs. He said the Zoning Law provides an exemption for political signs except that political signs cannot be placed on either Town property or in the Town right-of-way. He said he thinks the public has a significant misunderstanding about what constitutes the public right-of-way. He said most people think that the street and the Town property end at the pavement. In fact, he said, in most streets in the Town of Bethlehem, at least in the suburban areas the street actually goes 13 feet onto most people's lawns which is Town property. He said as a practical matter almost every political sign that is placed in the Town of Bethlehem is placed on Town property. He said the Town is faced with a dilemma. He said if you were going to enforce that law to the strict letter of the law, then the Highway Department and our zoning enforcement people and perhaps even our Police, would be spending virtually their entire day removing signs. He said that would also raise a significant issue about first amendment rights, citizens would be very upset if we were to go onto what is technically Town property and remove signs from what people consider to be their front lawns. He said you also have significant issues about candidates from either party and it did not matter which claiming that the Town has engaged in discriminatory enforcement.

Town Attorney Potter said if there are 1,000 signs in the Town of Bethlehem and they are successful in getting 999 all the candidates will say we have

discriminated because you left that 1 sign up. So, there is a certain level of discretion, Mr. Potter said, in the enforcement of the political sign limitation as he understands it. He said the Town does remove any signs from Town parks and Town property but in terms of removing them from the right-of-way and Town roads, that has not been a practical thing to do.

Mr. Morand asked Mr. Potter what the words mean – will it be enforced at your own leisure, at your own discretion. He said the words are very straight forward. He said it says no signs. Mr. Potter said he understands that. Mr. Morand said Fisher Boulevard and Blessing Road are Town highways. He said the area from the Tollgate to Cherry Avenue that portion of Kenwood is the Town's responsibility. He said the Town paved that a few years ago and he questioned why they were paving and they said it is within the requirement of the Town to maintain that area. He said there are signs all over it. He said he was watching the Town people mowing lawns, there is an incline before the underpass on Route 85, our people were out there taking the signs down, mowing and then putting the signs back up. He said the same thing as you go up Kenwood and you get to Cherry Avenue, there is a little area where you make the turn and that area is maintained by the Town. He said again, the signs were taken down, mowing was done and the signs were put back again. Mr. Morand asked if that is a good use of Town employees. He said get a hold of the politicians and tell them to get their signs off Town property. Mr. Morand said he talked with the Town Attorney about that and he noted he told him to call their headquarters and say, you are breaking the Town laws.

Mr. Morand said he is not living in a honky tonk town but apparently that is what the Town Board is willing to make it. Supervisor Cunningham thanked Mr. Morand. Mr. Morand said he would like the Board to rule whether they are going to have the signs removed or let them stay there. Supervisor Cunningham said there is no motion on the floor. He said if he wanted comments from the rest of the Board, he can ask them.

Councilman Kotary said he would like to make a comment. He said Mr. Potter brings up a good point on the first amendment freedom of speech. He said this was talked about before and it has come up in other situations, every Halloween for example. He said there are complaints from residents about decorations that go over the top and there was a meeting at one point about try to enforce or request that people take them down. He said the response was, as he recalls, that if they don't that it is a freedom of speech issue. He said the Supreme Court has ruled on political signs. He said Mr. Morand correctly points out what the law states, what he would suggest is that if they have something like this lawn sign ordinance that is unenforceable that maybe the Board fix the law specific to the right-of-way issue. He said he fully supports not having political lawn signs on the Town property – Town Hall, parks, Elm Avenue, etc – but the right-of-way again technically as you correctly point out as it reads, the Board would have to go around and yank probably every political lawn sign off of individuals lawns. He said quite frankly, that might get into a constitutional issue and as Mr. Potter pointed out, a law enforcement issue where everyone runs around taking political signs out. He said he would rather see that a look is taken at the law, on his suggestion, and amend it to what it was – because he was on the Board – what they intended and what he thought was that it prohibit political signs from actual Town property. He said that would be his proposed resolution to this issue.

Mr. Morand said the law is very specific, like he said and he used to go out and put up political signs noting they never put them up on Town property. He said when they put them up on the Delmar Bypass or anything like that, they did it after the mowing was stopped by the State for the season so they would not interfere with the State workers. He said there have never been signs erected in this Town the way it is right now and the Town looks like a honky tonk. He said it does not look like high tax paying area and he was a high taxpayer. He said he is sure there are others in the Town the same way. He said he thinks the law should be enforced. He said there are 10 or 15 signs in one area and asked that the Town do their job. He requested the Board not give 10,000 reasons why including the freedom of speech and everything. He said what about his rights and the taxpayers

rights in this Town to maintain a situation that does not look like a honky tonk town. He said he thinks the Town Board has a responsibility here to enforce the law. He said he does not know how much clearer you can get since the law says no signs.

Councilman Messina said to make a point that is valid from his perspective, that is why he is making it so strenuously and that is this is what the law says. He said he would like to also take a look at this law to – and he did not disagree with Mr. Morand on interpretation of it – but he sees some of these other issues and see how they can do a better job with respect to Towns by either implementation or amendment of the law itself. He said he cannot make a decision or a recommendation tonight. He said he has to sit with his colleagues and take a look at that one but he does know there are areas in the Town where it is clear that there are many signs and it is also clear that these are not adjacent to or bordering private property. He said they are on Town property and no one is going to raise the idea that they came up 16 foot up on my property or not and it is a clear issue. He said maybe they can grapple with some of those things if some time is given to the Board.

Mr. Morand asked Town Clerk Newkirk, who has run for election for many years, if she has ever – not to his knowledge – put signs on Town property. He said in fact I know she puts them on the bypass but only after the mowing season is over with. So here is a person who is elected, Mr. Morand said, authority that respects the laws. He said other parties have respected the law, this year here Mr. Cunningham decides oh, it is okay put your signs wherever you want to and that is not right. Supervisor Cunningham said he thought that was an inaccurate description of their conversation. Mr. Morand said he told him he would not take the signs down. The Supervisor said he explained just what Town Attorney Potter just explained. He said that is not an acceptable reason to him and that is fine, but it is an inaccurate description. Mr. Morand said it was not that the Supervisor said he would not take them down.

Mr. Morand said he asked the Supervisor to take them down. He directed for the Supervisor not to sit and say he did not ask to have them removed. He said I made a request that the Town take the signs down. He asked what he told him. Supervisor Cunningham asked Mr. Morand if he had other comments to make noting he is not doing a press conference. Mr. Morand said no, he wanted the Board to act on this. Supervisor Cunningham said there is no motion on the floor and therefore, no action is required. Mr. Morand said so the Board is just going to ignore the law. The Supervisor noted they explained that this will be discussed and consider amendments to the law. Mr. Morand said that is fine and he is going to put a big sign on his front lawn and he dares anyone to tell him to take it down. He said they will then go to court over it. Supervisor Cunningham said okay and thanked him.

The Supervisor asked if there were any other comments on non-agenda items. Ms. Lisa Evans said she will be brief and noted she handed the Supervisor some petitions and she will describe what they were. She said she put some extra copies of her comments in there. She said she wanted to start out, having to say that she is representing sort of an informal group, a committee against the bypass. She said there was a statement made last night that she thinks reflects how she feels and the rest do and that is no way, no how, no bypass.

Ms. Evans read a letter addressed to the Supervisor and the Members of the Town Board.

Dear Supervisor Cunningham and Members of the Town Board:

We understand the 9W Corridor Study Committee plans to vote for the “preferred route” for the so-called Selkirk By-pass (more recently named the Creble Rd. Ext.) extending from Creble Road, through the Weisheit and Clapper Road communities at a new Thruway exchange, and ending at Rt. 144 near the Jobs Corps. We sensed strong opposition to this project in the community. Accordingly we circulated a

petition (“no Selkirk Bypass”) which concludes, “We do not want a Selkirk bypass anywhere. Please use the money for something productive, such as improving current state routes.” As of this date, 440 members of the Bethlehem community, the majority live in the Selkirk area, have signed the Petition, copies of which are attached.

It should be noted that the sentiment in the Selkirk community is overwhelmingly against the so-called Selkirk Bypass. Please those who carried the petition noted that approximately 95 percent of the people who were approached, did sign the petition. There is wide spread belief that the project will do little to improve conditions in Selkirk, but instead will destroy neighboring communities on Weisheit and Clapper Roads. People from the hamlet of Selkirk and those communities affected by the change think that it is unfair to use problems in one community as an excuse to destroy a neighboring community. It is believe that the real purpose of the project is, and always has been, to lure industry to this area. What is now a pastoral reserve will forever be changed with traffic and congestion that industrial development will bring. There is a great concern in spending more than 30 million dollars on this project, when far more pressing matters of infrastructure need attention. The “spend and industry will come” mentality that is project represents is greeted with overwhelming skepticism. “If you spend and industry doesn’t come where will that leave us – deep in debt like Malta without the AMD Chip Plant?” This is an especially relevant question in this downturn of the state economy.

On behalf of the people who signed the petition we urge you not to approve this “preferred route”, and to rather consider the economic advantages of keeping the space green, hopefully in agriculture. This is why the CACC Advisory Committee was created, and CACC has not been hear from. Most of those who signed the petition feel that there was never an open and fair process by which this route was selected as preferred. The only sense in which this route was preferred was by the planners.

We ask that you, the Supervisor and the Town Board consider what the people want particularly those in the area affected by this proposal. The signatures on the petitions speak eloquently. If you consider the proposed plan in light of these petitions, we are confident that you will not move forward.

Ms. Evan said this is submitted by and many of the people who carried the petitions are here. She asked them to acknowledge themselves – Anthony DeLuca, Steven Downs, Eugene Hoffert, Tony Mason, Dawn Pratt, Bill Weisheit, Harry Wilbur and Connie Wilbur and Steve Wiley. She thanked them for working together to bring this to the Board. Supervisor Cunningham thanked Ms. Evans.

The Supervisor said for clarification on this for those who are not aware, the Town has been for probably about 15 years now looking at an alternative route for trucks off of the Maple Avenue route that goes through the hamlet of Selkirk. He said the 9W study has not been completed so he said they have not actually come up with a preferred route yet but it is his understanding that the 9W study is going to indicate that there is a need to create a route that will bring traffic off of Route 9W probably lower than Glenmont Road. He said what they have working towards is to work with the Thruway to create a Thruway exchange so that they can capitalize on the industrial area down in Selkirk which is along the railroad yard. He said the current proposals that they are looking at would involve the reuse of existing infrastructure in order to create, basically, a mile of improved infrastructure so that they can encourage commercial development down in the industrial zone along the railroad tracks. He said the advantage to the Town is that they need the commercial development.

Supervisor Cunningham said they are working on their budget now and there is serious long term budget issues that they need to consider and close financial gaps that if they do not work on now, will harm the Town to the same degree that they are seeing in areas like Colonie and the City of Albany. He said they have decided to seriously look at creating a route that will move traffic out of that industrial zone over to the Thruway. He said there is a lot of work to be done on

this and there is a lot of time for the public to be involved and comment on it. He said there is no effort to close out the public at any point. He said he appreciated the hard work that this committee has done to put this petition together and invited everyone to be involved every step of the way including comments. He said Ms. Evans and he meet regularly to discuss this so it is not an adversarial relationship. He said he feels strongly about her needs as well as the Town as a whole. He said he hoped everyone would be working with them as they move forward. He thanked everyone.

Councilman Kotary asked to add a couple things. He thanked Ms. Evans for her remarks and said they have met. He said they were looking at one of the options and how to avoid a route that goes through a lot of green space and potential preservation lands. He said to reiterate what the Supervisor was saying, while it is a preferred route or option, looking at existing infrastructure right now and how to improve that to meet the needs, as well as, preserving is something they are looking at. He said he wanted to thank everyone and he wanted his personal commitment known with regard to looking at all the options and alternatives. He said there is a very consistent and strong tack record by the Board in doing things to preserve green space, conservation and other things. He said they try to meet both the needs of the Town whether they are looking at an industrial areas to improve the tax base, as well as, balancing that with keeping things as they are, protecting and preserving. He said he can appreciate what everyone is trying to do and again thanked them. He said there is a ways to go in this process before a decision is reached.

Supervisor Cunningham asked if there were any other comments from the Board. There were none.

Mr. Tony Mason asked about the open space plan. He said his understanding is that that really has not been completed and it seemed to him that that should be the first thing to define what is really essential for maintaining, as the Board has said, for preservation and then to work out something that fits into that possibility because once it is done and then you can't go back afterward and say yeah, we should have been more cognizant of that area. He said it seems to him that the order should be first the open space plan to have a definite as to what needs to be preserved. Supervisor Cunningham thanked Mr. Mason.

The Supervisor asked if there were other comments regarding the petition. There were none.

- - -

Ms. Linda Jasinski said first of all the comment that everyone should subscribe to cable, some of us live in the rural areas of town and it's just not effective to do that. Supervisor Cunningham said he knew he would be gotten on that one.

Ms. Jasinski said the other comment had to do with the discussion on the noise ordinance. She said she is glad to see everyone was discussing this rather than just moving on. She said she wished the Board would discuss more of the things that are voted on so the audience can understand it better and know that the Board has looked into the information. She said this brings her to a couple of Board Members comments that they did not want to read through the comments that were made by the people in these meetings. She said that is appalling because as representatives of the people, she would expect that the Board would be listening all through the year and not just when you are going around campaigning to be reelected. Councilman Dawson asked that Ms. Jasinski not misunderstand her statement. She said it was that she did not feel the need to redo the work that the committee has spent so much time and effort to do. She said it was not that she was not interested in the comments, in fact, she was at the meeting and heard many of the comments. She said the idea that they all need to review this stuff so that they can make a decision, she did not want to leave that impression. Ms. Jasinski said it sounded like she just didn't want to bother reading the comments and as someone who gets up and comments a lot, she would like to know at least sometime the Board is listening. Councilman Dawson said they are here for the

residents. She said she is amazed and she learns all the time that quite the extreme opposite of my intention would be misunderstood there. She said she was sorry.

Councilman Kotary said he was not sure if she was referring to him but he said he asked in the first place to see all the comments. He said he can either read through all of them or he would just as soon have a summary to get a flavor of it. He said he was not sure if that was directed at him or not.

Ms. Jasinski said her other question was how someone gets something on the agenda for the Town Board to vote on so that it is here, it has to be discussed and the Board has to vote a yes or no. Supervisor Cunningham said the Town Supervisor sets the agenda. He said if there is anything someone wants to talk about, they need to come in and see him. Ms. Jasinski said it would be presented to the Supervisor and then it would be put on the agenda so that everybody else can vote on or she asked if he filtered it so that if you do not want to, it does not go on it. Supervisor Cunningham said the Town Supervisor sets the agenda. Ms. Jasinski thanked the Supervisor.

- - -

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

The Supervisor asked for a motion to adjourn to Executive Session to discuss the Human Resource Committee recommendations.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve adjourning to Executive Session to discuss the Human Resource Committee recommendations. The motion was passed by the following vote:

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

The motion was made by Mr. Kotary and seconded by Mrs. Dawson to adjourn the regular Town Board meeting at 7:17 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

EXECUTIVE SESSION

There was no formal action taken at the Executive Session.