

TOWN BOARD  
APRIL 8, 2009

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

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

- - -

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

The Supervisor asked if there were any public comments on agenda items. There were none. He noted there are 2 public hearings.

HEARING BEGAN: 6:04 p. m.

SUPERVISOR CUNNINGHAM: The first one, I am going to take these out of order from the agenda. The first one we will start is the public hearing on the Community Development Block Grant opportunities. So, first I am requesting a motion to waive the reading of the call of the hearing and indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting in the minutes.

The motion was made by Mr. Messina and seconded by Mr. Hennessey to waive the reading of the call of the hearing and indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting in the minutes. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

- - -

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING  
TOWN OF BETHLEHEM

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on April 8, 2009 and April 22, 2009 at 6:00 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY in regard to Community Development Block Grant opportunities.

All parties in interest and citizens will have an opportunity to be heard at the said hearing.

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

BY ORDER OF THE TOWN BOARD  
TOWN OF BETHLEHEM  
KATHLEEN A. NEWKIRK, MMC,RMC  
TOWN CLERK

- - -

STATE OF NEW YORK)  
COUNTY OF ALBANY)

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and the attached Legal Notice was published in the Town's legal newspaper, The Spotlight,

on March 25, 2009 that I posted the Notice of Public Hearing on March 25, 2009 on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Kathleen A. Newkirk  
Town Clerk

Sworn to before me this

25th day of March, 2009.

/s/ Julie S. McNeil

Notary Public

- - -

SUPERVISOR CUNNINGHAM: Next, do you want to give us an update on what we are doing here and then we can take public comment. Thanks.

MR. PENMAN: Actually, Jack, both public hearings are both related to South Albany Sewer District so I was going to kind of touch base on both of them because they are both related.

I wasn't going to go into the full details about the grant because we presented this to the Board before but, as you know, we have the South Albany Sewer District which is an independent sewer district that has 23 homes. It's serviced by a sand filter that has been failing since 2006 and we have been exceeding our DEC permit limits. We've had notice of violation and we are under consent order by the DEC to replace the sand filter.

The problem with the district again is it's 23 people.... Homes and it is predominantly low income and the district can't really support the cost of replacing the district on their own, it would exceed the Comptroller's limit requirements.

Basically, just to give you an idea, the estimate of the improvements is \$460,000 divided by 23 homes over 20 years is \$1,000 per home per year for 20 years. So, it really isn't sustainable. So, what we have done is we are approaching it to try and get a grant. Basically a 2 pronged approach, we're working with Environmental Facilities Corporation or EFC and the NYS Office of Community Renewal. Traditionally, EFC... we applied last year in 2008, traditionally they just do low interest or zero interest loans. They usually don't give grants.

So, we had applied last year as a potential for supplemental funding if we got a grant that didn't quite cover everything. The good news about that is that as of 2009, they are receiving Federal stimulus money of approximately \$435 million. We were notified this year that we are above the contingency line which means there is a funding line and a contingency line -- the funding line says everybody above this line is funded if they want the money and then the contingency line is those projects that don't take advantage of the money are funded.

So, based on past history, we expect to get some kind of a grant for this project. The problem is we don't know how much grant money or how much is going to be grant and how much is going to be loan. So, what we will do is... we have to proceed with the application. Once we find out what is offered, if anything, we'll come back to the Board and say here's the proposed grant amount, here would be the proposed financing.

So, what we need to do in order to do this is we have to pass a bond resolution for the full amount of the project. That does not obligate the Board to bond that amount, it just gives the authority to do so if we need to. And, again, we'll come back to the Board if we determine it is feasible to bond a certain portion or not. Okay.

Timing on that is, we should know approximately 2 to 3 months. Again, we've submitted a full application, we have to submit the bond resolution and we'll know in a couple months of what we are going to get if anything.

The second prong that we are taking is the Office of Community Renewal. We applied for a grant in 2008 and we were unsuccessful at that time but we've met with staff and we were told we just missed the funding by a couple of points. That combined with again... they are also getting Federal stimulus money of, I think, of approximately \$13 million so we are hoping that we can tune up our application, bring it up a couple points, as well as, the funding line might come down a couple points to get the project funded. As part of that application, we have to have a public hearing to solicit input. In fact, we have a second... we're having a second public hearing at the next Board meeting. They require 2 public hearings. At this time we don't need any further action on that application.

So, kind of to summarize what we need is we're approaching the 2 grants -- Community Development and the EFC -- for the EFC grant we need to pass the Bond Resolution tonight after the public hearing we'd ask the Board to approve that. And, then have the public hearing for the Community Renewal Grant. So, those are the 2 public hearings.

I have a copy of the proposed improvements if anybody would like to look at it or I can go over that but again, we presented it before so... any questions?

SUPERVISOR CUNNINGHAM: Does the Board have any questions? Okay, good. Thanks, Paul.

Okay, this is a public hearing which is now open to public comment on the Community Development Block Grant opportunities for the Town of Bethlehem.

MR. JASINSKI: Good evening, I am Robert Jasinski. One of the things I will call your attention to is the fact that that is Currey Road and I think it would be nice if you used the name Currey Road somewhere in there because Currey was, I believe if I am not mistaken, awarded the Medal of Honor and it would be somewhat nice if some way you could impart into that his name. Thank you.

SUPERVISOR CUNNINGHAM: Okay, we're talking about sewer.

MR. JASINSKI: I know that but still you're giving 23 people along Currey Road the project use of it and them only. You are not expanding it to anybody else.

SUPERVISOR CUNNINGHAM: Right. The official name of it is the South Albany Sewer District. That is why they referred to it... for the grant purposes that is what we needed to refer to it but I will mention the Currey Road connection also going forward.

MR. JASINSKI: Thank you.

SUPERVISOR CUNNINGHAM: Okay. Other comments? Okay if not can I have a motion to close the public hearing?

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to close the public hearing at 6:14 p.m. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

---

Town Clerk

HEARING BEGAN: 6:15 p.m.

SUPERVISOR CUNNINGHAM: Second public hearing is on the funding of sanitary improvements for the Bethlehem South Albany Sewer District. So, first I will request a motion to waive the reading of the call of the hearing and indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting in the

---

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

minutes.

The motion was made by Mr. Hennessey and seconded by Mrs. Dawson to waive the reading of the call of the hearing and indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting in the minutes. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

-----

TOWN CLERK NEWKIRK:

A meeting of the Town Board of the Town of Bethlehem, in the County of Albany, New York, was held at the Town Hall, in said Town, on March 11, 2009.

PRESENT:

Hon. John H. Cunningham, Supervisor

Joann Dawson, Board Member

Mark Hennessey, Board Member

Kyle Kotary, Board Member

Samuel Messina, Board Member

-----X

In the Matter

of the

Increase and Improvement of Facilities of the Town of Bethlehem South Albany Sewer District and the construction of improvements therein, in the Town of Bethlehem, County of Albany, New York, pursuant to Section 202-b of the Town Law.

-----X

**ORDER CALLING PUBLIC  
HEARING TO BE HELD ON  
APRIL 8, 2009**

WHEREAS, the Town Board of the Town of Bethlehem (herein called "Town Board" and "Town", respectively), in the County of Albany, New York, has, pursuant to Town Law, created the Town of Bethlehem South Albany Sewer District (the "District"), and has directed Clough Harbour & Associates LLP, a professional engineering firm licensed in New York, to prepare a map and plan for the District waste water treatment plant improvements, including but not limited to, the installation of open re-circulating sand filters at the South Albany Sewer District wastewater treatment facility; and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, (the "Improvements"); and pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such map and plan for said increase and improvement of facilities of the District and has estimated the total cost thereof to be a maximum amount of \$462,000; said cost to be financed by the issuance of serial bonds of the Town in the amount of \$462,000, offset by any federal, state, county and/or local funds received; and

NOW, THEREFORE, BE IT

ORDERED that a meeting of the Town Board of the Town of Bethlehem will be held at the Town Hall, 445 Delaware Avenue, Bethlehem, New York, on April 8, 2009 at 6:00 p.m. o'clock P.M. (prevailing Time) to consider said increase and improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it

FURTHER ORDERED, that the Town Clerk publish at least once in each newspaper designated as the official newspaper of the Town for such

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

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

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

NOES: None.

ABSENT: None.

The Order Calling for Public Hearing was declared adopted.

KATHLEEN A. NEWKIRK, MMC, RMC  
TOWN CLERK  
TOWN BOARD OF THE  
TOWN OF BETHLEHEM  
-----

SUPERVISOR CUNNINGHAM: Thank you. There is no additional information you want to provide on that?

MR. PENMAN: No.

SUPERVISOR CUNNINGHAM: This is just the second of the public hearings that we need to do for this. So, are there any other comments regarding the Sewer District? Any questions regarding the project? Okay, good. May I have a motion to close the public hearing?

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to close the public hearing at 6:17 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  
-----

Supervisor Cunningham said the reason he put these in reverse order was that the next item on the agenda has to do with the second portion of this process.

The next item was a request from Deputy Commissioner of Public Works, Erik Deyoe, to adopt the following items as they relate to the South Albany Sewer District: (1) Adopt the SEQRA resolution determining the project as a Type II action; (2) Adopt a resolution and order after public hearing approving the increase and improvement of facilities; and (3) Adopt the bond resolution in an amount not to exceed \$462,000 pursuant to local finance law.

#### **RESOLUTION NO. 15**

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

WHEREAS, the Town Board of the Town of Bethlehem, Albany County, New York (the "Town"), desires to proceed with the Increase and Improvement of

Facilities of the Town of Bethlehem South Albany Sewer District (the “Improvements Project”); and

WHEREAS, the reconstruction of and construction of the Improvement Project consists of the following: including but not limited to, the installation of open re-circulating sand filters at the South Albany Sewer District wastewater treatment facility; and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, and all preliminary costs and costs incidental thereto (collectively, the “Project”); and

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

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

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

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

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

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

(A) The Project consists of the following: the installation of open re-circulating sand filters at the South Albany Sewer District wastewater treatment facility; and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, and all preliminary costs and costs incidental thereto (the “Project”).

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

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

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

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

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

SECTION 4. This Resolution shall take effect immediately.

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

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

NOES: None.

ABSENT: None.

The foregoing resolution was thereupon declared duly adopted.

- - -

## **RESOLUTION NO. 16**

A meeting of the Town Board of the Town of Bethlehem, in the County of Albany, New York, was held at the Town Hall, in said Town, on April 8, 2009.

---

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

PRESENT:

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

-----  
In the Matter  
of the

Increase and Improvement of Facilities of the Town of  
Bethlehem South Albany Sewer District, in the Town of  
Bethlehem, in the County of Albany, New York, pursuant  
to Section 202-b of the Town Law

-----  
**RESOLUTION AND ORDER  
AFTER PUBLIC HEARING APPROVING  
THE INCREASE AND IMPROVEMENT OF  
FACILITIES OF THE TOWN OF BETHLEHEM  
SOUTH ALBANY SEWER DISTRICT**

WHEREAS, the Town Board of the Town of Bethlehem (herein called "Town Board" and "Town", respectively), in the County of Albany, New York on behalf of the Town of Bethlehem South Albany Sewer District (the "District"), in the Town, has directed Barton & Loguidice, P.C., a professional engineering firm licensed in New York, to prepare a map and plan for the sewer system improvements, including but not limited to, the installation of open recirculating sand filters at the South Albany Sewer District wastewater treatment facility; and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, (the "Improvements"); and pursuant to the direction of the Town, the Town's Engineer, Barton & Loguidice, P.C., has completed and filed with the Town Board such map and plan for said increase and improvement of facilities of the District and has estimated the total cost thereof to be a maximum amount of \$462,000; said cost to be financed by the issuance of serial bonds of the Town in the amount of \$462,000, offset by any federal, state, county and/or local funds; and

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

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

WHEREAS, the Town Board issued an Order at its March 11, 2009 meeting calling for a public hearing to be held at the Town Hall, Bethlehem, New York, on April 8, 2009 at 6:00 o'clock P.M. (prevailing time) to consider said increase and improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing; and

---

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

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

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

DETERMINED, that it is in the public interest to increase and improve the facilities of the District as hereinabove described and referred to at the estimated maximum cost of \$462,000; and it is hereby

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

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

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

FURTHER ORDERED, that the expense of said increase and improvement of the facilities shall be financed by the issuance of serial bonds of the Town in an amount not to exceed \$462,000, said amount to be offset by any federal, state, county and/or local funds, and the costs of said increase and improvement of facilities shall be paid by the assessment, levy and collection of special assessments, from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law, and it is hereby

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

DATED: April 8, 2009

TOWN BOARD OF THE  
TOWN OF BETHLEHEM

The adoption of the foregoing Resolution Approving the Increase and Improvement of Facilities of the Town of Bethlehem South Albany Sewer District was duly put to a vote on roll call, which resulted as follows:

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

NOES: None.

ABSENT: None.

The Resolution approving the increase and improvement of facilities of the South Albany Sewer District was declared adopted.

- - -

THE FOLLOWING RESOLUTION WAS OFFERED BY  
MR. MESSINA, SECONDED BY MR. KOTARY, TO WIT:

**RESOLUTION NO. 17**

**A BOND RESOLUTION, DATED APRIL 8, 2009, OF THE TOWN OF BETHLEHEM, ALBANY COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE INCREASE AND IMPROVEMENT OF FACILITIES OF THE TOWN OF BETHLEHEM SOUTH ALBANY SEWER DISTRICT AT A MAXIMUM AMOUNT NOT TO EXCEED \$462,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$462,000, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.**

WHEREAS, the Town Board of the Town of Bethlehem, Albany County, New York (the "Town"), has determined to proceed with the Increase and Improvement of Facilities of the Town of Bethlehem South Albany Sewer District (the "Improvements Project"); and

WHEREAS, the Town Board desires to undertake the reconstruction of and construction of the Improvement Project, including but not limited to, the installation of open re-circulating sand filters at the South Albany Sewer District wastewater treatment facility; and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, and all preliminary costs and costs incidental thereto (collectively, the "Improvements").

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

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

The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is the increase and improvement of facilities of the Town of Bethlehem South Albany Sewer District (the "District") in the Town of Bethlehem. The maximum cost of said purpose will not exceed \$462,000.

The Town Board plans to finance the Town's maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$462,000 of said Town, hereby authorized to be issued therefor pursuant to the Local Finance Law; provided, however that the principal amount of such bonds shall not exceed any limit under New York law. The Town presently anticipates that a portion of the costs of the purpose will be financed with the proceeds of certain federal, state and other grants. Any funds received by the Town relating to the purpose will be applied to finance a portion of said purpose and/or reduce the principal amount of the obligations issued or to be issued by the Town for such purpose and/or to pay any debt service on any obligations issued by the Town for such purpose, as applicable and as permitted by law.

It is hereby determined that said purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due

and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall be the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds as the same become due and payable, except as provided by law.

Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

The Town Supervisor is hereby authorized to execute and deliver in the name and on behalf of the Town a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "SRF Project Financing Agreement"). The Town Supervisor and the Town Clerk and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Financing Agreement.

The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

The Town has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

1. (a) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

(b) if the provisions of law which should be *complied with at the date of publication of this resolution are not substantially complied with* and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

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

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

This Resolution is effective immediately.

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

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

NOES: None.

ABSENT: None.

The foregoing resolution was thereupon declared duly adopted.

-----

The next item was a presentation on the final report from the Noise Ordinance Task Force. Supervisor Cunningham noted this Task Force was established a few months ago and Councilman Messina headed up. He said residents from the Town that were on the Task Force were in attendance -- Mr. Martel, Ms. DeFranco, Mr. Jasinski, Deputy Chief Beebe, Building Inspector Boucher and Councilman Hennessey.

Councilman Messina said what he really wanted to do at this meeting and keep it to 5 minutes because this is a very detailed statute that has been granted was to express his personal and professional appreciation to all of the Task Force members that have participated in this. He said it was a grueling process at times and long over 18 months but he is please with the product the Town Board has received because of the efforts. He said a good job was done and this group worked in an outstanding way.

Councilman Messina said there were a couple of suggestions -- he encouraged each of the members to speak their mind about going forward with this. He said his thoughts were the Town Board has received 3 documents -- a Memorandum which laid out the whole process, as well as, the methodology of what the results and recommendations are, second piece was the ordinance itself, and the third was additional areas for consideration because there are different routes the Town Board can go with this. He said the email sent to Jack suggested this because it was such a complex area that something like what is done for the budget workshops be set up so the Town Board could sit there, have the Task Force come in and others and have it open to the public and really have an engaging conversation about anything in the ordinance. He thinks that is the best way to handle this productively. He said Town Attorney Potter also transmitted some comments from the legal perspective to him and they were distributed to the members of the Task Force. He said he has not had a chance to go through those yet. He noted he appreciated Mr. Potter's comments.

Councilman Messina said that was basically where they are and maybe some of the members would like to make comments. Councilman Hennessey said it was an interesting process noting he was on the Task Force for about 6 months. He commented the process of coming together to create the proposed statute was lengthy, every couple weeks and in the end every week. He noted the perspective from different people was great and may be different from the one you might be experiencing. He said Mr. Jaskinski brought up aspects of his neighborhood that were different from the neighborhood he lives in. He said that helped to broaden the perspective noting Ms. DeFranco did the same thing. He said Deputy Chief Beebe was very helpful several times. He thanked everyone for all the work they put in and again noted the intent is not for anyone to go away or for this to end but

to hear continued commentary, ideas, thoughts from everyone as this moves forward.

Mr. Robert Jasinski thanked all the members of the Task Force. He said they did not start out buddy-buddy but they had many arguments over 18 months. He said it was rough but noted Councilman Messina did so much sending the emails, drafting the information and doing everything. He thanked Mr. Messina for the time he put on it, noting it was outstanding. He said his address to the Town Board is 'we've given you a tool box with tools in it, now you can either use some of these tools, use them all or you can just throw them all away, that is up to you'. He thanked everyone that has worked on this. Supervisor Cunningham thanked Mr. Jasinski.

Ms. DeFranco said she agreed with everything Mr. Jasinski said. She noted this was her first experience with anything with government and it really was a great experience. She said she hopes they can follow this through to a really great noise ordinance in the Town because she feels it would benefit the quality of life. She said she also wanted to encourage the Board to have some type of a public workshop or workshop with the Task Force because over 18 months an incredible amount of work and research and background went into this and she thought only 1 person might have been an attorney. She said they have a lot of background that if anyone has any questions or needs additional information, they would be happy to provide it. She thanked everyone. Supervisor Cunningham thanked her.

Mr. Martel thanked the Board for their vision as far as getting something like this and getting it off the ground and really supporting the entire process. He said he agrees with Ms. DeFranco that this needs to be put out and hold a workshop and really get some more input and tweak the language and the process. He said other than that he thinks it went very well. He thanked everyone. Supervisor Cunningham thanked him.

Councilman Messina asked the Supervisor if he mentioned Chris Hanifin was on the Task Force also. Supervisor Cunningham said Chris Hanifin was also a valuable member and the attorney he thought was referred to. Mr. Messina said he was a recommendation by Councilman Kotary and about the same time as Councilman Hennessey came on and he was truly a good member.

Deputy Chief Beebe said he just publicly wanted to acknowledge Councilman Messina and all the hard work that was put into this. He said also acknowledge the level of expertise that they were able to draw from this community. He said he is truly impressed with the citizens that stepped forward to lend their time and expertise for projects like this and other projects that have come along. He thanked the Board.

Supervisor Cunningham thanked Deputy Chief Beebe. He said he would just like to thank all the members and Councilman Messina for leading on this Task Force. He thanked everyone for the time and hard work they did. He said sometimes government work is a thankless job but they really took on a thankless task in doing all this volunteer work so early in the morning. He said it is very valuable to the community to have public participation like this. He said he really appreciates them doing this. He said the tool box will not be thrown away noting he does not know what will be built but it will not get thrown away.

Councilman Kotary said he would just echo thanks and praise for everyone who participated. He said there was an incredible amount of work done on this and boiled it down into 3 easy to read and understand documents. He said it is always a challenge regardless of the topic. He said in particular in those areas that are still open for discussion, areas that may be different perspectives and views and the areas that might not be a clear right and wrong answer yet many sides to looking at the certain issues. He said that is also very helpful to the Board as they get the tools, as Mr. Jasinski said, to get a real sense of what the tools are, how they are used and what are the various benefits or downsides to using some of these tools.

Supervisor Cunningham noted there was another gentleman, Mark Bagdon,

who was not part of the committee but is a noise expert and lended a lot of his expertise to the Task Force. He noted Mr. Bagdon's business is in Town. Councilman Messina said the company is environmental engineering and sound engineering and Mr. Bagdon attended many of the meetings and has a level of expertise that went beyond the Task Force's. He said he volunteered his time and Mr. Bagdon told him that the Task Force did a very, very good job with it.

Supervisor Cunningham thanked everyone.

-----

The next item on the agenda was to approve the Town Board minutes of February 25, March 11 and March 25, 2009.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to approve the Town Board minutes of February 25, March 11 and March 25, 2009 as submitted. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

-----

The next item was a request from Supervisor Cunningham to appoint William Burkhard, Slingerlands, NY to the Board of Assessment Review. Supervisor Cunningham asked for a motion.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to approve the appointment of William Burkhard, Slingerlands, New York to the position of Member, Board of Assessment Review.

Councilman Messina said for 2 years he has tried to discuss the notion of a bit more openness in the recruitment process to let the Town know what opportunities there are beyond what we do now and also a little more open process. He said among the Board before the agenda goes out on Friday with the name there. He said he has been unsuccessful so others can criticize me for being unsuccessful, noting he criticized himself but he thinks the issue he has been dealing with is the wrong issue. He said the issue is one of control, one of kind of tight fisted governance and the issue is the one of the way Chairman Matt Clyne governs things. He said he needs to discuss that and continue to discuss that because my interest is in improvement Bethlehem both its political processes and its governmental ones if he can. He said he wanted to comment on that and he is prepared to vote on this candidate. Supervisor Cunningham thanked Councilman Messina.

The Supervisor asked if there were any other comments or questions.

The motion was passed by the following vote:

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

Noes: Mr. Messina, Mr. Hennessey.

Absent: None.

- - -

Councilman Messina said he opposed with respect and appreciation for Mr. Burkhard, who is a good member of the community, probably would do a good job here. He said it is not about Bill Burkhard. He thanked the Supervisor.

-----

The next item was a request from Chief of Police, Louis Corsi, to authorize the Supervisor to execute an Inter Municipal Agreement between the County of Albany and the Town of Bethlehem to accept \$13,878 in Justice Assistance Grant funds. Deputy Chief Beebe said the County of Albany was awarded over \$800,000 and it has divided that up within all the municipalities in Albany County based on population and their part 1 offenses as reported to the FBI. He noted our portion is

approximately \$14,000. He said they are planning on using it to buy a software program that will allow the extraction of data and map it from the records management system. He said there will be some additional cost to the Town over the 3 year grant period, about \$5,121 additional primarily for software maintenance. Supervisor Cunningham thanked Deputy Chief Beebe.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to authorize the Supervisor to execute an Inter Municipal Agreement between the County of Albany and the Town of Bethlehem to accept \$13,878 in Justice Assistance Grant funds as requested by Chief of Police, Louis Corsi. The motion was passed by the following vote:

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

Noes: Mrs. Dawson.

Absent: None.

-----

The next item was a request from Town Planner, Jeffrey Lipnicky, to consider renewal of Town designated engineer master services agreement with Barton Loguidice, P.C.

The motion was made by Mr. Kotary and seconded by Mr. Cunningham to approve the renewal of the Town designated engineer master services agreement with Barton Loguidice, P.C.

Councilman Messina said the question and probably suggestion, noting he sent an email to Mr. Lipnicky to get some additional background. He said Councilman Hennessey raised the point at one of the meetings as to whether or not our employees are engineers and consultants could balance differently. He said that is a valid point but he is not going in that direction. He said he is going in the direction of maybe assessing how often the Board should consider rebidding the town designated engineers. He said this is the 4<sup>th</sup> year that Barton Laguidice are in play and he thinks they should be assessed for their continuance every 2 years to make. He said he understands that this TDE has already expired.

Director of Economic and Planning, Michael Morelli, noted they have been using Clough Harbour and Barton and Laguidice for the last 4 years. He said they find, as indicated, they have started to become familiar with what the Town is looking for including the standards. He said they feel that both of these firms perform at that level, noting there was a learning curve when they first came on. He said as the Councilmen know, the contract has the fees for the different uses from \$250 down to \$40. He said that is pretty acceptable industry standards. He said Mr Penman had been working with Barton and Laguidice on their fees. He said they feel that is good but if the Board wishes they could consider sending the RFP out and getting some feedback that would be acceptable.

Supervisor Cunningham asked Mr. Morelli if this was RFP'd originally. Mr. Morelli said it was. The Supervisor asked what percentage of the TDE work is funded basically -- passed through and the funding comes from projects and developers to do this work -- noting the majority of that work is TDE work. Mr. Morelli said Mr. Penman could speak to engineering. He said for the stuff that goes before the Planning Board there is 26 active projects right now, 9 have been shipped out to TDEs. He said for Vista Technology, for example, given the magnitude of that project that fee is going to be relatively substantial. He said it is a pass through, there is no cost to the Town or to the taxpayer. He said it is paid for by the developer.

Mr. Morelli said there is a project recently accepted by the Town Board that was referred to the Planning Board -- referring to 526 Russell Road -- Barton and Laguidice had done a traffic study earlier on for that area, not specific to that project, they would use the TDE possibly to review the applicant's traffic study. He said they do not use them from soup to nuts in every instance. He said it may be some specialized area or it may have to do with a sewer line or traffic, storm water management or whatever. He said they are being used in conjunction with

the Town staff as deemed necessary. He noted they work with the Engineering Division to review the scope of the project and if they feel they need some extra expertise, then they bring in the TDE. He said they give them the scope of work and they give the price that is forwarded on to the applicant and the applicant puts the money into an account. He said when the project is billed, the bill is sent to the applicant, he reviews the bill and notifies if it is acceptable and then they draw down from the account. He said they have some other consultants that the Town has used.

Councilman Messina said he understands that B & L is doing work for us now and also that this last contract was up end of March. He said he would have no problem with having this in place for another year for continuity going forward. He said it is next year that he would want to look at this and consideration be given to other firms that might be out there. He asked on the point of the costs going directly to the developer, would that same situation be there if the Town had direct charges on the project that could be charged to the developer so it offsets Town costs. Mr. Morelli said they do use the TDE for specific applications. Mr. Messina said he was asking about the expenditures on the project could offset the Town staff costs, as well as, the consultant costs. Supervisor Cunningham said they do and we do that.

Mr. Morelli said there is certain billing that Engineering Division does for their review and they bill by the hour and it is paid back by the application. He said again with the TDEs. Councilman Messina said he just wanted to question the next year. Mr. Morelli said Clough Harbour's contract was renewed February of this year. He said the reason Barton and Laguidice was not is because they wanted some clarification on some of the fees that were proposed. He said the fees in the package are, again, very consistent with industry standards. Mr. Messina thanked Mr. Morelli.

Councilman Kotary asked if it is typical for a Town of our size to have 2 firms designated, asking if there was a standard. Mr. Morelli said some will use a single firm, some will use more than one, some will use a variety of different firms. He noted they felt that using 2 would be appropriate so they were not selecting just a single firm. He said it gives a little diversity and it gives an opportunity to also make sure that there is a little competition there as well.

Councilman Kotary asked how many firms in the area there are. He said he does not have a sense for how many. Mr. Morelli said there are dozens of firms, maybe 50 or 60 firms, noting some firms focus on certain areas. He said they felt both Barton and Laguidice and Clough Harbour were 2 firms well rounded and met the needs that the Town would be typically looking for. Mr. Kotary said they both have great reputations and they have done very good work with us. Mr. Morelli said they have been very satisfied. Mr. Kotary said they could also add, if they came across a project that required a TDE that was not in one of their strong suites, they could add a 3 or 4<sup>th</sup> at some time. Mr. Morelli said that was correct. Town Attorney Potter said this could be done a project-by-project basis. He said the reason behind the TDE was they did not want the Building Department or Planning Department to have to come back for each project. He said the Town Board was authorizing them to use these firms that the Town Board had approved. He said if the Planning Department found that one of the 2 firms did not meet the needs of a particular project, they could come back to the Town Board at any time and ask for other authorization.

Supervisor Cunningham said because these are professional services unlike a commodity, they do not want to be bidding for every project. He said it would add a lot of time to the projects but also when you are bidding, it is a different process. He said they want to avoid a frequent bid on this work.

Councilman Kotary said based on the Memo, as well as, what has been discussed, there is obviously a lot of work effort and thought into whether or not to continue with Clough and now with B & L. So, in a sense, Mr. Kotary said they are kind of doing exactly what is being recommended -- looking at this and having an opportunity to vote on whether to continue and then both of them will be up in a

year.

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 reappoint the following individuals to the Citizens Advisory Committee on Conservation (CACC) for a term of two years expiring April 30, 2011.

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to approve the reappointment of the following individuals to the Citizens Advisory Committee on Conservation (CACC) for a term of two (2) years expiring April 30, 2011 as requested by Senior Planner, Rob Leslie:

Jeff Freeman

Valerie Newell

Ted Putney

Michael Waldenmaier

Caleb Wistar.

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 Nan Lanahan, Administrator, Parks and Recreation Department to authorize the Supervisor to sign an Agreement with the Town of New Scotland to operate the Playground program at Clarksville School.

The motion was made by Mr. Kotary and seconded by Mrs. Dawson to authorize the Supervisor to sign an Agreement with the Town of New Scotland to operate the Playground program at Clarksville School. 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 Administrator, Nan Lanahan, Department of Parks and Recreation to approve seasonal personnel.

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to approve the appointment of seasonal personnel as listed in the Memorandum dated April 8, 2009 at the titles and salaries listed and 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 next item was a request from the Administrator of Parks and Recreations for the Award of Bid for the drain work at the Elm Avenue pool to Clardon Swim Center.

The motion was made by Mr. Hennessey and seconded by Mr. Messina to

approve the award of bid for the drain work at the Elm Avenue pool to Clardon Swim Center.

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

Noes: None.

Absent: None.

-----

The next item was a request from the Commissioner of Public Works, Joseph Cansler, to approve the award of bid for the purchase of Materials to be used in the Department of Public Works Field Operations Division.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve the award of bids for the purchase of Materials to be used in the Department of Public Works Field Operations Division as per the bid documents received and the vendors indicated in the Memorandum. The motion was passed 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 Town Board Members. Councilman Kotary said one thing he wanted to mention was a few meetings ago he said they were going to take a look at some green initiatives, some ongoing projects and programs that they are currently implementing and also take a look at what might be out there for us as a Town to look at in terms of soliciting grant monies for various environmental programs, taking a look at what might be done in the Town to further increase the energy efficiency, green standards. He said also to take a look at what is out there in terms of Federal, State and local programs, as well as, programs that might be in the private sector. He noted the next Board meeting will be Earth Day, April 22 at which point he would like to bring to the Board a resolution to become a Climate Smart Community. He said it is a multi-State agency program, DEC Office for Climate Change has the lead on it and essentially what this Smart Community pledge states is that communities will participate in a 10 step program to essentially take a look at what we, as a Town government, are doing and what we can do to improve efficiencies and potential programs that are out there. He said it is taking the first step.

Mr. Kotary noted DEC has a lot of grant opportunities available for these types of programs, all of which would be funded and in any case, they will also talk about some Earth Day activities, as well as, between now and then we have several ongoing green initiatives like Community Clean-up Day and some other programs. Supervisor Cunningham thanked Councilman Kotary.

- - -

Supervisor Cunningham made the following announcements:

- ❖ April is National Volunteer month and we are always looking for volunteers here at Town Hall.
- ❖ April 18 is Community Clean-up Day and that is in conjunction with Earth Day. The 3<sup>rd</sup> Saturday of each month from April to October they put a group of volunteers together and for 3 hours they identify an area that has a lot of garbage along the side of the road and they clean it up.
- ❖ Today was National DARE day and the Town has run a DARE program for 20 years this year for the elementary schools. He acknowledged and thanked Officer Whitely and all the Bethlehem Police Department that have organized this program and run it so successfully. He congratulated everyone.
- ❖ The other day they received a Certificate of Designation to the Town of Bethlehem from Governor Patterson and it is in grateful recognition for active participation in the NYS Quadricentennial commemoration. He said there will be some activities over the summer to commemorate the

navigation of the Hudson River by Henry Hudson. He said one of the reasons he wanted to mention this was there are some residents who have been working on this for over 4 years. He mentioned it was started by Parker Mathusa who sadly will not be here to enjoy it but County Legislator Tom Cotrofeld has headed up this committee and Nan Lanahan and the Parks office have been working hard on it and our Historian Susan Leath. He said there are other residents of Town who have also been involved.

- ❖ Earth Day is April 22 and the 20/20 Committee will be meeting on April 24 at the Elsmere Fire Department, second floor, 7:45 a.m.
- ❖ Selkirk Yard Industrial group meeting on April 23, 2009 at 7:45 a.m.
- ❖ May 2, 2009 is Household Hazardous Waste Day at the Town Highway garage.
- ❖ May 2 is also the Timothy Mosher run.

- - -

Supervisor Cunningham opened the meeting to public comments on non-agenda items. Mr. Albert Penk residing on Clapper Road in Selkirk, New York. He said this was in regard to the Clapper Road Area Interchange Feasibility Study for the Town of Bethlehem, New York. He said he believes the report of March 25, 2009 given by Mark A. Sargent of Creighton Manning Engineering to this Town Board was somewhat flawed. He said he gave less than an honest conclusion. He said the presentation was given to justify the \$25,000 awarded to them by the Town Board on September 24, 2008 and did not address the true and accurate survey.

Mr. Penk quoted eight (8) points from the NYS Thruway letter of February 26, 2009 from the Chief Engineer of the NYS Thruway Authority to Mark A. Sargent of Creighton Manning Engineering. He noted some of the information was not even mentioned in the survey.

Mr. Penk said in conclusion he believes the presentation by Creighton Manning Engineering was misleading, and did not include the negative responses of the study outlined in the NYS Thruway Authority's letter dated February 26, 2009. He said Creighton Manning's presentation was given on March 25, 2009, a month after that did not even address the Thruway letter.

Mr. Penk said when all the accurate information is evaluated in this feasibility study, the Town of Bethlehem's Town Board should vote a conclusion to end this ridiculous project immediately and end the harassment of the taxpayers living in this area of the Town of Bethlehem. He thanked the Board. Supervisor Cunningham thanked Mr. Penk.

- - -

The Supervisor asked if there were any other comments on non-agenda items. Mrs. Carol Penk said at the last Board meeting held March 25, 2009 she made a statement in opposition of any further pursuit of the Clapper Road interchange for the New York State Thruway and the Creble Road extension project. She said in the statement she made reference to the fact that our former Director of Planning and Economic Development is now head of our Town's Planning Board and that this, in her opinion, constitutes a conflict of interest.

Mrs. Penk noted in an Albany Times Union dated March 27, 2009 an article appeared entitled, Jobless Pain and Uneven Spread. In this article, she said our former Director of Economic Development was interviewed concerning our current recession status. She noted in the article it states that he has now joined H. B. Solutions, LLC - an economic development firm.

Mrs. Penk said she still believes that his being placed as head of our Planning Board constitutes a huge conflict of interest. She said she knows that perhaps legally it is okay but like some of the country's agencies that are being bailed out currently by Federal monies and the fact that some of the bail out money has been used for bonus packages is legal, she still feels it is morally and ethically wrong. Town Attorney Potter said he was asked before the Board made the appointment of Mr. Leveille as the Chairman of the Planning Board whether there

was any conflict of interest either legally or whether it would present a conflict on a practical approach. He said he advised the Board that he did not see a conflict. Mrs. Penk said she thought that might be the case but perceptually...

- - -

Mr. John Smolinsky, apologizing for bending the Board's rule, had a couple comments about the noise ordinance. He said it was not mentioned whether it was on the website or whether those documents will be on the website. He noted it would be very useful to turn those into public documents so that if anyone can comment on them they can make a more intelligent comment.

Secondly, Mr. Smolinsky asked the Committee to think about areas of the noise ordinance where you want to direct the public to think about or comment on certain topics or certain issues within the ordinance to kind of help direct or invite comments on things that the Board might feel are either weaknesses or things that need clarification. He thanked the Board. Supervisor Cunningham thanked Mr. Smolinsky.

- - -

Ms. Linda Jasinski said as a citizen who likes to keep an eye on my elected officials and the spending of her tax money, she would request again that in the agenda or at least in the minutes of the Town Board meeting you put the qualifications of the people that you hire or appoint because they have no idea what kind of qualifications the person has indicating he may be very well qualified but they do not know that. She also asked about the amount of money that some of these awards are going out to so they know how much is being spent on the pool drain.

Mrs. Jasinski also said she was not sure what the mapping software is that the Police Department is looking into -- because you can map all sorts of things -- but asked that any reports that may come out of this be available on the website to the public as well. Supervisor Cunningham noted not all the Police reports can be made available. Ms. Jasinski said whatever can be. She said she meant if this is just looking at the statistics of where the crimes are occurring or something like that, that certainly is available other places and she would like to see it available here as well. Supervisor Cunningham thanked Ms. Jasinski.

- - -

Supervisor asked for a motion to adjourn to Executive Session to discuss a potential law suit.

The motion was made by Mr. Kotary and seconded by Mr. Messina to approve adjourning to Executive Session to discuss a potential law suit. 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. Hennessey and seconded by Mrs. Dawson to adjourn the regular Town Board meeting at 6:57 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

The motion was made by Mr. Messina and seconded by Mrs. Dawson to approve the settlement in regard to Gonyea et ano v Town of Bethlehem reducing the assessed property value to \$287,500. 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 Mr. Hennessey to approve a contract to hire Donald Zee, Esq at a fee of \$250 per hour for a maximum of ten hours to complete work on a developing tax assessment case. The motion was passed by the following vote:

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