

TOWN BOARD  
February 23, 2005

A regular meeting of the Town Board of the Town of Bethlehem was held on the above date at the Town Hall, 445 Delaware Avenue, Delmar, NY. The meeting was called to order by the Supervisor at 5:30 p.m.

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

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Supervisor Egan welcomed everyone to a regular meeting of the Bethlehem Town Board and invited them to join in the pledge of allegiance.

The first item on tonight's agenda was to receive public comment on any item on the agenda.

Mrs. Capone said she told the Supervisor that maybe 6 p.m. would be better for Councilman Marcelle but she told me to ask you when you came in. Councilman Marcelle said a more reliable car would be appropriate. He said maybe a couple extra lanes on Route 9W also.

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The first item was to approve the Town Board minutes of January 26 and February 9, 2005.

The motion was made by Mr. Marcelle and seconded by Mr. Plummer to approve the Town Board minutes of January 26, 2005 as submitted. The motion was passed by the following vote:

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

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The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve the Town Board minutes of February 9, 2005 with correction. The motion was passed by the following vote:

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

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The next item remained tabled and will be considered for approval of sewer agreement with Town of New Scotland.

The motion was made by Mr. Marcelle and seconded by Mr. Plummer to table the item to consider approval of the sewer agreement with the Town of New Scotland. The motion was passed by the following vote:

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

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The next item was to acknowledge receipt of prints from Delmar Progress Club. Supervisor Egan introduced Rosemary Brown, Yvonne Lutkus and Ann

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

Young from the Delmar Progress Club and noted the prints are historical pictures. Mrs. Lutkus said they wished to thank the Supervisor's office for the last 12 years for civic betterment and always having an open door to help the Club. She said they wanted to thank the Supervisor for all the cooperation they have given the Delmar Progress Club. Supervisor Egan thanked Mrs. Lutkus.

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The next item was to approve issuance of renewal of Trailer Camp Permit for Shady Grove West and Breckenridge Village, Selkirk. Supervisor Egan noted she had the check for the fee in the amount of \$600.00.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve the issuance of a renewal Trailer Camp Permit for Shady Grove West and Breckenridge Village as requested by Garden Homes Management Corporation, Stamford, CT. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Lenhardt, Mr. Gordon.

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The next item was a request from Building Inspector, Mark Platel, for approval of dumping permit for 113 Queen Anne Drive, Slingerlands.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve the issuance of a dumping permit as requested by Donald and Nancy Santella, Slingerlands, New York for 113 Queen Anne Drive, Slingerlands, NY as requested by Mark Platel, Building Inspector. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Lenhardt, Mr. Gordon.

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The following item was a request from Mark Platel, Building Inspector, for approval of renewal of dumping permit for Elsmere Avenue, Delmar.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve the renewal of dumping permit for Michael Waldenmaier, 108 Beacon Road, Glenmont, NY for approval of a dumping permit for Elsmere Avenue, Delmar as requested by Building Inspector, Mark Platel. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Lenhardt, Mr. Gordon.

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Following was to acknowledge receipt of Cable Television Franchise Fee from Time Warner Cable in the amount of \$100,503.29.

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The next item was to acknowledge receipt of additional Cable Television Franchise Fee from Time Warner Cable in the amount of \$19,064.68. Supervisor Egan noted they did an internal review of records for the year 2000 to the year 2003 and the determination was made that this additional franchise fees was due.

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The following item was to acknowledge receipt of the 2004 Annual Report from Town Clerk, Kathleen A. Newkirk, CMC, RMC. Supervisor Egan thanked the Town Clerk and asked if there were any questions. There were none. The

Supervisor noted it is a very busy Clerk's office and nice compliments were received at the Association of Towns for the Clerk's office. She said it was nice.

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The next item was a request from the Supervisor to establish the Town Board as lead agency for purposes of SEQR related to Comprehensive Plan and Zoning Regulations.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to establish the Town Board as lead agency for purposes of SEQR related to the Comprehensive Plan, as well as, the land use regulations - Zoning Regulations. The motion was passed by the following vote:

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

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The following item was a request from Supervisor Egan to make a Positive Declaration and cause a draft GEIS to be prepared in conjunction with the Comprehensive Plan and the land use regulations and subdivision regulations.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve a Positive Declaration and cause a draft GEIS to be prepared in conjunction with the Comprehensive Plan and land use regulations and subdivision regulations. The motion was passed by the following vote:

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

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The next item was a request from Commissioner of Public Works, George Leveille, to accept a negative declaration in relation to New Salem Water System Upgrade.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve the acceptance of a negative declaration in relation to the New Salem Water System Upgrade. The motion was passed by the following vote:

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

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The next item was a request from Highway Superintendent, Gregg Sagendorph, for approval of award of bid for various items.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to approve the award of bid for the various items as listed in the Memorandum from Highway Superintendent, Gregg Sagendorph dated February 17, 2005, and on file in the Town Clerk's office, for Gasoline and Diesel Fuel; Heating Oil; Guide Rail; Topsoil; In-Place Paving; Milling of Bituminous Asphalt; Gravel; Washed Crushed Stone; Rental of Track Excavator; Rental of Construction Equipment; and Utility Repair Crews. The motion was passed by the following vote:

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

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The next item was a request from Highway Superintendent, Gregg Sagendorph, for authorization of Supervisor to sign agreement regarding

improvements of at-grade railroad crossing, Beaver Dam Road, Selkirk and adoption of resolution authorizing NYSDOT to reimburse the Town for cost of improvements. Supervisor Egan said the estimated cost of the final stage is \$4,500 which the State will reimburse the Town upon completion. She said the work is scheduled for the spring.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to authorize Supervisor Egan to sign an agreement regarding improvements of at-grade railroad crossing, Beaver Dam Road, Selkirk as requested by Highway Superintendent, Gregg Sagendorph. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Lenhardt, Mr. Gordon.

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The following resolution was presented for adoption:

#### RESOLUTION

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem in the County of Albany, State of New York has on the 23rd day of February 2005, duly adopted a resolution as follows:

WHEREAS, the New York State Department of Transportation (NYSDOT) has funded signal improvements to the at-grade railroad crossing on Beaver Dam Road (a Town highway) in the Town of Bethlehem; and

WHEREAS, to complete the project NYSDOT is requesting that the Town of Bethlehem install 245 feet of pre-cast concrete curbing at this crossing in the vicinity of one of the new gated signal installations; and

WHEREAS, it has been estimated that this work will cost approximately \$4,500.00 and will be completed in the spring of 2005 by Town forces; and

WHEREAS, upon completion of said work the NYSDOT will reimburse the Town of Bethlehem for all eligible costs incurred to complete the project; and

NOW, THEREFORE, BE IT RESOLVED that the Town of Bethlehem hereby acknowledges that it will participate in said improvement to the railroad crossing on Beaver Dam Road and will be reimbursed by NYSDOT for its efforts.

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

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

Noes: None.

Absent: Mr. Lenhardt, Mr. Gordon.

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The next item was a request from Gregg Sagendorph, Highway Superintendent, for adoption of resolution to participate in grant awarded to Albany County regarding storm water regulations. Supervisor Egan noted this is a matching grant program that Albany County is offering. She said these regulations must be met by 2008. She said it is a 50/50 match and it can be in-kind services.

#### **RESOLUTION**

NOTICE IS HEREBY GIVEN THAT THE Town Board of the Town of Bethlehem in the County of Albany, State of New York has on the 23<sup>rd</sup> day of February 2005, duly adopted a resolution as follows:

WHEREAS, Albany County has been awarded a Water Quality Improvement Grant for Phase II MS4 Storm Water Permit Implementation from the Environmental Protection Fund in cooperation with participating MS4 communities within the County of Albany, and

WHEREAS, the Town of Bethlehem is a participating MS4 community identified in the County's grant and wishes to cooperate and participate in this program,

NOW, THEREFORE, BE IT RESOLVED that the Town of Bethlehem, hereby acknowledges that it will participate and cooperate with Albany County

with respect to the grant from the Environmental Protection Fund that has been awarded to address MS4 Phase II Storm Water Permit Implementation.

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

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

NOES: None.

ABSENT: Mr. Lenhardt, Mr. Gordon.

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Supervisor Egan asked if there was any other public comment. There was none. Question was asked about what the in-kind services would be in regard to the grant. The Supervisor said an in-kind service means as opposed to actually matching it dollar-for-dollar, say \$50 for \$50, you can provide \$50 in services. She said the salary of an individual working on the project would be an example.

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The Supervisor said in regard to updates, no more information has been received on the EPA dewatering facility since the last meeting. She said there is no CAG meeting in February so the next meeting will be in March. She noted she has received several requests to be involved with the Citizen Action Group and she will be circulating them among the Board Members over the next week or so.

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Supervisor Egan said the comprehensive planning process, as everyone knows, is moving hopefully to a conclusion. She said the next meeting is March 3, 2005 at 7:00 p.m. at Town Hall. She said this will be the public hearing sponsored by the Bethlehem Planning Advisory Committee. She said on March 7, 2005 the monthly working meeting of BPAC will be held which is open to the public. She said hopefully between these 2 meetings, there will be a consensus and it can get passed onto the Town Board. She said hopefully to the Town Board on March 9, 2005 for acceptance and move forward from there.

Supervisor Egan asked Director Leveille if the time line has been gotten to the Board Members. Mr. Leveille said it is on the way. She said they have worked out a detailed time line so that everyone is aware of that.

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The Supervisor said at this time, she is still coordinating dates in regard to doing the public hearing on the extension for the moratorium. She said she is trying to work on some dates and notice provisions and things like that. She said that should be coming out in the next couple of days.

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Ms. Linda Jasinski said the Supervisor had a quote in the Spotlight last week about the citizens committee for the dewatering and it says 'it will be an ad hoc committee not subject to the Freedom of Information law, no sort of authority' and asked why the issue of the Freedom of Information law was brought up. Supervisor Egan said there was a question from one of the other Board Members in regard to is this an authorized committee of the Town Board which would be subject to the FOIL law, as well as, other statutory provisions. She said she wanted to be clear that this is not one of those committees. She said it is not like BPAC. Ms. Jasinski said from what she understands, it is not subject to the open meetings law, it is still subject to the FOIL law if anything comes out of it. Supervisor Egan said that could be. She said they were talking about the statutory enacted committee. Ms. Jasinski said she was reading the article and wondered why that would be mentioned.

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The motion was made by Mr. Plummer and seconded by Mr. Marcelle to adjourn the regular Town Board meeting at 5:53 p.m. The motion was passed by the following vote:

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

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

Noes: None.

Absent: Mr. Lenhardt, Mr. Gordon.

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Town Clerk