

TOWN BOARD
AUGUST 12, 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

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Supervisor Cunningham welcomed everyone to a regular meeting of the Bethlehem Town Board. He asked Town Clerk Newkirk to lead the pledge of allegiance.

The first item was for public comments on agenda items. Mr. Robert Jasinski inquired about the demolition and removal of the Town Lyons Road house. Supervisor Cunningham noted leaving the house would create a safety issue. He said the Building Department has taken a look at the condition of the house and it would be too costly to repair the building. He noted the second item is the C & D landfill which will be closing this year.

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Mr. Jarod King, 22 Paxwood Road inquired about the PATHs 4 Bethlehem resolution. Mr. King said he would not approve of the resolution in its present form.

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There were no further comments.

HEARING BEGAN : 6:10 p.m.

SUPERVISOR CUNNINGHAM: Next item is a public hearing to establish the Troubador Sewer District Extension

The reading of the call of the hearing was waived with direction to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting by motion of Mr. Kotary, seconded by Mr. Hennessey and passed by the following vote:

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

Noes: None.

Absent: None.

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TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on August 12, 2009 at 6:00 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider Extension #31 to Bethlehem Sewer District. The proposed Troubador extension will provide sanitary sewer service to five lots within the Troubador residential subdivision and 1022 Route 9W, Selkirk. The maximum amount proposed to be expended for the improvement is not to exceed \$2,500.00 per year; cost of the proposed district to the typical residence will be \$0.32 per thousand dollars of assessed valuation per year, and a \$450 hook-up fee will be required.

Description of Proposed
Troubador Extension #31
to Bethlehem Sewer District

All that certain tract, piece of parcel of land situate, lying and being in the Town of Bethlehem, County of Albany, State of New York, lying along US Route 9W, and being more particularly bounded and described as follows:

BEGINNING at a point at the intersection of the division line between Lot 6 Thoroughbred Circle on the North and the lands now or formerly of Rick Hallenbeck, Tax Map Parcel No. 121.0-1-20 on the South with the Westerly boundary of Route 9W as shown on a map entitled "Preliminary Plat Subdivision Plan Troubador Estates Subdivision," Town of Bethlehem, County of Albany, New York, prepared by C.T. Male Associates, P.C., dated August 29, 2003, last revised March 25, 2005, and runs thence from said point of beginning in a Westerly direction along the above mentioned division line 85± feet to its intersection with the existing sewer district line; thence in a generally Northwesterly direction along a curve to the left along said existing sewer district line 782± feet to a point; thence continuing along said existing sewer district line in a Northerly direction 456± feet to its intersection with the Northerly boundary of Lot 31 as shown on the said hereinabove referenced filed subdivision map; thence in a generally Easterly direction along the Northerly boundary of said Lot 31 as shown on the above mentioned filed subdivision map 62± feet to its intersection with the Northerly boundary of said Lot 31 as shown on the said hereinabove referenced filed subdivision map; thence in an Easterly direction along the Northerly boundary of said Lot 31, a distance of 29± feet to its intersection with the common Northeasterly boundary of Lots 23, 29 and 31 as shown on the said hereinabove referenced filed subdivision map; thence along the above last mentioned common lot line the following three (3) courses: 1) in a Southeasterly direction 369± feet to a point; 2) in a Northerly direction 15± feet to a point; and 3) in an Easterly direction 117± feet to its intersection with the Westerly boundary of Route 9W; thence in a generally Southerly direction along the Westerly boundary of Route 9W, a distance of 32± feet to a point, said point being the Southeasterly corner of Lot 23 as shown on the said hereinabove referenced filed subdivision map; thence in a Southerly direction crossing Route 9W, a distance of 220± feet to a point on the Easterly boundary of Route 9W, said point being the Northwesterly corner of Tax Map Parcel No. 121.00-3-2; thence along the Northerly and Easterly boundary of said Tax Map Parcel No. 121.00-3-2 and along the Southerly and Westerly boundary of Church Road the following two (2) courses: 1) in an Easterly direction 57± feet to a point; and 2) thence in a Southerly direction 523± feet to its intersection with the Southerly boundary of Tax Map Parcel No. 121.00-3-2; thence in a Westerly direction along the Southerly boundary of said Tax Map Parcel No. 121.00-3-2, a distance of 194± feet to its intersection with the Easterly boundary of Route 9W; thence in a Westerly direction crossing Route 9W, a distance of 86± feet to the point or place of beginning.

The above described proposed sewer district is shown on a map entitled "Sewer Report Map Troubador Subdivision," Town of Bethlehem, County of Albany, New York, prepared by C.T. Male Associates, P.C., dated March 25, 2005, last revised July 12, 2007.

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

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

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

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STATE OF NEW YORK) SS:
COUNTY OF ALBANY)

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and the attached Legal Notice was published in the Town's legal newspaper, The Spotlight, on July 29, 2009 and that I posted the Notice of Public Hearing on July 29, 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

12th day of August, 2009.

/s/ Julie S. McNeil

Notary Public

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SUPERVISOR CUNNINGHAM: Okay. Anybody want to give us an update on what this is, a quick update to see if the Board has any questions and then we can move on with that. This is on Troubador Sewer District.

TOWN ENGINEER DEYOE: This is the Troubador Subdivision down in Selkirk, across the street from Clapper Road. There was a... this is part of the approval by the Planning Board about a year and a half ago. The project is underway. They've got the road installed at this point. One of the houses is constructed and there is another one in construction right now. One of the requirements of the approval was the extension of the Sewer District to pickup 3 of the new properties in that new subdivision, as well as, one across the street on 9W. This will extend the Sewer District for those parcels.

SUPERVISOR CUNNINGHAM: Okay, good, thank you Erik. Does anybody have any questions on the extension of the Sewer District? Okay. Thanks Erik.

Okay, do we have any public comments on the extension of the Troubador Sewer District Extension number 30? There were none. Okay.

Can I have a motion to close the public hearing?

The motion was made by Mr. Messina and seconded by Mr. Kotary to close the public hearing at 6:15 p.m. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

Town Clerk

The Supervisor asked if the Board wished to take action on accepting the Troubador Sewer District Extension. The following resolution was presented for adoption:

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

RESOLUTION NO. 28

In the Matter of
RESOLUTION APPROVING SEWER DISTRICT
Extending BETHLEHEM SEWER DISTRICT EXTENSION #31 FOR TROUBADOR
Of the TOWN OF BETHLEHEM, UNDER ARTICLE 12, TOWN LAW
ALBANY COUNTY, NEW YORK,
PURSUANT TO article 12-A of the
Town Law

WHEREAS, a petition dated the 17th day of June, 2007, Has been duly presented to the Town Board of the Town of Bethlehem, County of Albany, State of New York, with the necessary map and plan attached thereto according to law, requesting that there be an extension of Bethlehem Sewer District, as hereinafter described, to be established in the Town of Bethlehem and,

WHEREAS said Town Board duly adopted on the 22nd day of July, 2009, an order reciting in general terms the filing of said petition, the boundaries of the extension of said district, the improvements proposed, the maximum amount proposed to be expended for the extension of said district, and specifying that the said Town Board shall meet at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, N. Y., on the 12th day of August, 2009, at 6 o'clock P.M., to consider said petition and hear all persons interested in the subject thereof concerning the same, and

WHEREAS, certified copies of said order were duly published and posted according to law, and the Town Board did, at the time and place specified in said order, duly meet and consider the matters of the extension of said sewer district, and heard all persons interested in the subject, who appeared at such time and place, concerning the same and,

WHEREAS, the evidence afforded at such time and place requires that the Town Board make the determinations hereinafter made:

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Bethlehem, County of Albany, and State of New York that it be and hereby is determined as follows:

1. The aforesaid petition is signed and acknowledged as provided by law and is otherwise sufficient.
2. That all of the property and property owners within the proposed sewer district extension are benefited thereby.
3. That all of the property and property owners benefited are included within the proposed sewer district extension.
4. It is in the public interest to establish the proposed extension of the sewer district as hereinafter described it, and be it

FURTHER RESOLVED, that the Town Board does hereby approve the establishment of the extension to 'Town of Bethlehem Sewer District', as hereinafter described:

All that certain tract, piece of parcel of land situate, lying and being in the Town of Bethlehem, County of Albany, State of New York, lying along US Route 9W, and being more particularly bounded and described as follows:

BEGINNING at a point at the intersection of the division line between Lot 6 Thoroughbred Circle on the North and the lands now or formerly of Rick Hallenbeck, Tax Map Parcel No. 121.0-1-20 on the South with the Westerly boundary of Route 9W as shown on a map entitled "Preliminary Plat Subdivision Plan Troubador Estates Subdivision," Town of Bethlehem, County of Albany, New York, prepared by C.T. Male Associates, P.C., dated August 29, 2003, last revised March 25, 2005, and runs thence from said point of beginning in a Westerly direction along the above mentioned division line 85± feet to its intersection with the existing sewer district line; thence in a generally Northwesterly direction along a curve to the left along said existing sewer district line 782± feet to a point; thence continuing along said existing sewer district line in a Northerly direction 456± feet to its intersection with the Northerly boundary of Lot 31 as shown on the said hereinabove referenced filed subdivision map; thence in a generally Easterly direction along the Northerly boundary of said Lot 31 as shown on the above mentioned filed subdivision map 62± feet to its intersection with the Northerly boundary of said Lot 31 as shown on the said hereinabove referenced filed

subdivision map; thence in an Easterly direction along the Northerly boundary of said Lot 31, a distance of 29± feet to its intersection with the common Northeasterly boundary of Lots 23, 29 and 31 as shown on the said hereinabove referenced filed subdivision map; thence along the above last mentioned common lot line the following three (3) courses: 1) in a Southeasterly direction 369± feet to a point; 2) in a Northerly direction 15± feet to a point; and 3) in an Easterly direction 117± feet to its intersection with the Westerly boundary of Route 9W; thence in a generally Southerly direction along the Westerly boundary of Route 9W, a distance of 32± feet to a point, said point being the Southeasterly corner of Lot 23 as shown on the said hereinabove referenced filed subdivision map; thence in a Southerly direction crossing Route 9W, a distance of 220± feet to a point on the Easterly boundary of Route 9W, said point being the Northwesterly corner of Tax Map Parcel No. 121.00-3-2; thence along the Northerly and Easterly boundary of said Tax Map Parcel No. 121.00-3-2 and along the Southerly and Westerly boundary of Church Road the following two (2) courses: 1) in an Easterly direction 57± feet to a point; and 2) thence in a Southerly direction 523± feet to its intersection with the Southerly boundary of Tax Map Parcel No. 121.00-3-2; thence in a Westerly direction along the Southerly boundary of said Tax Map Parcel No. 121.00-3-2, a distance of 194± feet to its intersection with the Easterly boundary of Route 9W; thence in a Westerly direction crossing Route 9W, a distance of 86± feet to the point or place of beginning.

The above described proposed sewer district is shown on a map entitled "Sewer Report Map Troubador Subdivision," Town of Bethlehem, County of Albany, New York, prepared by C.T. Male Associates, P.C., dated March 25, 2005, last revised July 12, 2007.

And be it

FURTHER RESOLVED, that the following improvements in said district be constructed, as is set forth in the Engineer's Report dated June, 2006, a copy of which is annexed and attached hereto, and made a part hereof, and be it

FURTHER RESOLVED, that the proposed improvement, extension including the cost of rights of way, construction costs, legal fees, and other expenses shall be borne by the developer. Therefore, there will be no dept service associated with this district extension. Upon completion of system installation and appropriate testing, all infrastructure will be conveyed to the Town of Bethlehem at no cost.

FURTHER RESOLVED, that the Town Clerk is authorized and directed to file a certified copy of this resolution in duplicate in the Office of the State Department of Audit and Control at Albany, N.Y., together with an application in duplicate for permission to so create said extension in the manner and form prescribed by Section 194 of the Town Law of the State of New York within ten (10) days after the adoption of this resolution, and be it

FURTHER RESOLVED, that the Supervisor of the Town of Bethlehem be and hereby is authorized and directed to execute said application on behalf of the Town of Bethlehem, State of New York.

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

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

NAYS: None

ABSENT: None.

The next item was to approve the Town Board minutes of July 22, 2009.

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to approve the Town Board minutes of July 22, 2009 as submitted. The motion was passed by the following vote:

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

NOES: None.

ABSTAIN: Mr. Cunningham.

ABSENT: None.

The next item was a presentation by Comptroller, Suzanne Traylor, on the results for the first six months of the 2009 budget. The Comptroller gave an overview and review of the past 6 months financials. She noted we are 9 percent off of budget in the sales tax and 47 percent down in mortgage tax. Supervisor Cunningham noted the sales tax revenue reflects a period of time between October of 2008 and March of 2009.

Comptroller Traylor said they have looked at every account and are projecting the year end and are recommending a mid-year budget modification to adjust for the short fall in the sales tax and mortgage tax revenues. She said originally it was planned to use \$742,000 of the fund balance and based on everything looked at, this needs to be adjusted and they will need to use an additional \$122,000 of fund balance to close the budget gap. She noted there are spreadsheets indicating this provided to the Members.

The Comptroller noted there are changes recommended for all 4 funds. On the bottom of the spreadsheet, Comptroller Traylor said, the 15 percent appropriation amount is above the recommended amount. She said fund balance can be used and is not a bad thing. She said they are just asking for a little bit more. She reminded the Board that in December 2008, we came up ahead of the game and used less fund balance than intended.

Comptroller Traylor said the Highway Fund will receive FEMA money due to the ice storm in December 2008. She said they needed to recognize that figure because they have received it from the Federal Government. She noted this increases the Highway Fund fund balance. She said this also occurred in the sewer and water funds.

The Comptroller noted the interest rates are extremely low right now and the Town planned on received in interest revenue is basically not going to happen. She said they have recommended a cut in that interest revenue based on the economy.

Comptroller Traylor said the other item that has affected the budget is the fuel budgeting. She said it was done at \$4 per gallon and the average now is around \$2+ and realize fuel savings in every department.

Comptroller Traylor summarized and said the big hit was revenue and taxes affecting the revenues. She said all departments have been asked to watch expenses; deferred furniture purchases and equipment purchases; implemented a hiring freeze; reduced the pool Park and Rec hours; realized fuel cost savings; and continue to look for outside sources of revenue, grants and anything they can to boost the balances.

Supervisor Cunningham complimented all the department heads noting the Board was very clear at the beginning of the year that there was a need to keep a handle on expenses and they all got the message and worked very hard. He said he thinks the numbers reflect that effort and they appreciate everyone in Town for working with them to manage costs. He said it is very expensive to run a Town but where spending can be cut or held off, they have been trying to maintain that. Supervisor Cunningham thanked Comptroller Traylor.

The Supervisor said in conjunction with the 6 month update of the budget, the next item was a request to approve 2009 budget modifications recognizing a decrease in revenue of \$1,090,477 a decrease in expenditures of \$968,050 and an increase in use of fund balance of \$122,427. He explained when the budget was done there was a lot of discussion about revenues and expenditures and made a commitment that when there were good numbers to work with, they would make modifications that were appropriate. He said last year when the budget was started, gasoline prices were up over \$4 a gallon, the stock market at \$12,000 and inflation was running up over 6 percent. He noted things have changed a lot from last year to this date.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve budget modifications to the General Fund for 2009; reducing the revenue, recognizing the reduction in revenue of \$1,090,477, decreasing the expenditures by \$968,050 and increasing the use of fund balance by \$122,427. 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 presentation by Commissioner of Public Works, Josh Cansler, on the current status of the Capital Project Planning initiative. Supervisor Cunningham noted this has been talked about a lot this over months and months. He said it is a huge project and it will be done modularly, incrementally and recently had an audit by the NYS Comptroller's office to look at the Town's our size relative to Capital Plans. The Supervisor noted some of the work on this plan is what gave the information on the house on Lyons Road.

Commissioner Cansler this plan started about a year ago this time when Comptroller Kehoe was at the Town. He said it got put on hold but it has been kicked into high gear this year around February or March. The committee was organized earlier this year and updated the Board on what is being done and where they are at.

The Commissioner gave some background on the purpose of a Capital Plan. He exhibited slides to show the information relative to Capital Planning. He said the difference between a capital budget and a capital plan is that the capital budget is money spent each year and a capital plan is a plan for capital expenditures 5 years and beyond.

Commissioner Cansler said the Town of Bethlehem has been a fiscally responsible town for a lot of years. He said there has been a lot of fiscal responsibilities and done capital expenditures through the operating budget and Capital Reserves. He said that has worked fine.

Mr. Cansler said we have crept up on a lot of facility needs especially some major capital expenditures so it is time to start identifying, clarifying the capital needs and prioritizing them. He said they need to work on the list, present it to the Town Board and get it approved. He said a critical step is to update the plan annually.

Mr. Cansler said the inventory has been completed and there is just under 100 facilities in the Town. The assessment of the major buildings and facilities has been completed, according to Cansler. He noted the major facilities have been done and they are evaluating the Town's funding capabilities. Supervisor Cunningham thanked Public Works Commissioner Cansler.

The next item was a request from the Deputy Commissioner of Public Works, Erik Deyoe, to adopt a bond resolution in an amount not to exceed \$465,000 for the Elm Avenue Park Pool Filtration Improvement Project. Deputy Commissioner Deyoe gave a brief update of this project.

The following resolution was presented for adoption:

RESOLUTION NO. 29

BOND RESOLUTION ELM AVENUE PARK POOL IMPROVEMENT PROJECT

A meeting of the Town Board of the Town of Bethlehem, Albany County, New York was convened in public session at the Town Hall in the Town of Bethlehem, New York on August 12, 2009 at 6:00 o'clock p.m., local time.

The meeting was called to order by the Town Supervisor and, upon roll being called, the following members were:

PRESENT:

John H. Cunningham	Town Supervisor
Joann Dawson	Member
Sam Messina	Member
Kyle Kotary	Member
Mark Hennessey	Member

ABSENT: None.

The following persons were ALSO PRESENT:

Kathleen A. Newkirk, Town Clerk
James Potter, Esq. - Town Attorney

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

BOND RESOLUTION DATED AUGUST 12, 2009

A RESOLUTION AUTHORIZING (1) CERTAIN RECONSTRUCTION IMPROVEMENTS TO THE ELM AVENUE PARK POOL FILTRATION BUILDING IN THE TOWN OF BETHLEHEM, ALBANY COUNTY, NEW YORK (THE "TOWN"), AND (2) AUTHORIZING FINANCING OF THE PROJECT BY THE APPLICATION OF FUNDS OF THE TOWN IN AN AMOUNT NOT TO EXCEED \$285,000 FROM A CAPITAL RESERVE FUND HELD BY THE TOWN AND THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$465,000 OF THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR OF THE TOWN BOARD.

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

SECTION 1. The Town is hereby authorized to undertake a Town improvement project known as the Elm Avenue Pool Improvement Project, consisting of the undertaking of certain building reconstruction improvements to the Elm Avenue Park Pool Filtration Building in the Town, including but not limited to, the reconstruction of the roof, windows, doors, and electrical and plumbing systems, as well as the purchase of original furnishings, equipment, machinery and apparatus required in connection with the purposes for which such building and site is used, all ancillary or related work required in connection therewith and all associated preliminary and incidental costs (hereinafter referred to as the "purpose"). The maximum cost of said purpose will not exceed \$750,000.

SECTION 2. The Town Board plans to finance the Town's maximum estimated cost of said purpose by (a) the issuance of serial bonds in an amount not to exceed \$465,000 of the Town, hereby authorized to be issued therefor pursuant to the Local Finance Law and (b) the appropriation of \$285,000 from the Town's Capital Reserve Fund, the withdrawal and appropriation of such moneys from the Town's Capital Reserve Fund is hereby authorized by this resolution.

SECTION 3. The Elm Avenue Park Pool Filtration Building is of Class "B" construction as defined by Section 11.00 a. 13 of the Local Finance Law (the "Law") and the period of probable usefulness of the specific object or purpose herein authorized and for which a portion of said serial bonds are herein authorized to be issued, within the limitations of Section 11.00 a.13 of the Law, is ten (10) years.

SECTION 4. 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.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of said 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 annually be levied on all the taxable real property of said Town, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

SECTION 7. 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 of the Town Board, the chief fiscal officer of the Town.

SECTION 8. The Town Supervisor of the Town Board 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.

SECTION 9. The Town Supervisor of the Town Board 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.

SECTION 10. The Town hereby determines that the undertaking of certain building reconstruction improvements to the Elm Avenue Park Pool Filtration Building in the Town is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQR") is required.

SECTION 11. 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 capital purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse such expenditure with the proceeds of the bonds or bond anticipation notes authorized by Section 2 of this resolution. This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

SECTION 12. 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) 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.

SECTION 13. The Clerk of the Town 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 the official newspaper or newspapers of the Town.

SECTION 14. This resolution is adopted subject to permissive referendum pursuant to Section 35.00 of the Local Finance Law.

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

John H. Cunningham	VOTING <u>AYE</u>
Joann Dawson	VOTING <u>AYE</u>

Sam Messina

VOTING AYE

Kyle Kotary

VOTING AYE

Mark Hennessey

VOTING AYE

The foregoing resolution was thereupon declared duly adopted.

The next item was a request from Senior Planner, Rob Leslie, and the PATHs 4 Bethlehem Committee to approve the Compete Streets Resolution. The following resolution was presented for adoption:

RESOLUTION NO. 30

TOWN BOARD

TOWN OF BETHLEHEM

RESOLUTION COMPLETE STREETS

WHEREAS, a goal of the Town of Bethlehem Comprehensive Plan is to improve mobility – the ability of people, regardless of age and status, to engage in desired activities throughout the Town; and

WHEREAS, the Town of Bethlehem Comprehensive Plan recommends maintaining and enhancing bicycle and pedestrian connections within neighborhoods, and between neighborhoods and hamlet centers;

WHEREAS, the Town of Bethlehem has established a pathways committee (PATHs 4 Bethlehem) to explore bicycle and pedestrian facility connections and address issues; and

WHEREAS, bicycling and walking are important forms of transportation and recreation in our community; and

WHEREAS, bicycling and walking contribute to health, fitness, neighborhood vitality, social interaction, and economic development; and

WHEREAS, the full integration of all modes in the design of streets and highways will increase the capacity and efficiency of the road network, reduce traffic congestion by improving mobility options, limit greenhouse gas emissions, and improve the general quality of life; and

WHEREAS, educating the public about safety, health and mobility are part of being a quality community; and

WHEREAS, Complete Streets are defined as facilities that are designed and operated to enable safe and efficient access for all users. Persons with disabilities, pedestrians, bicyclists, motorists and transit riders are able to safely and efficiently move along and across a complete street.

NOW, THEREFORE, BE IT RESOLVED, the intent of the Town of Bethlehem Complete Streets Policy is to recognize bicyclists and pedestrians as equally important as motorists in the planning and design of all new street construction and street reconstruction undertaken by the Town.

BE IT FURTHER RESOLVED, it is also the intent of the Town of Bethlehem Complete Streets Policy to recognize that local Town streets with low vehicle volumes and slow travel speeds safely and efficiently accommodate bicyclists and pedestrians. However, principal Town roads that are characterized as having high vehicle volumes and high travel speeds, and are important for bicycle and pedestrian travel to access and connect to destinations in and adjacent to the Town, shall be considered for Complete Streets treatment.

BE IT FURTHER RESOLVED, that the Town Board hereby resolves to establish a Complete Streets Policy as follows:

Engineering: The Highway Superintendent shall consider the safe and efficient accommodation of bicyclists and pedestrians in all new street construction and street reconstruction undertaken by the Town of Bethlehem.

1. In addition, where the need for bicyclist and pedestrian facilities has been established or is defined in Town planning documents, including but not limited to the Bicycle and Pedestrian Priority Network identified by the PATHs 4 Bethlehem Committee, the Highway Superintendent shall consider the addition of safe bicyclist and pedestrian facilities in new street construction and street reconstruction undertaken by the Town of Bethlehem. The addition of the bicyclist and pedestrian facilities shall be consistent with the scope of the improvement project, context sensitive to the surrounding environment, and shall not be disproportionate with the cost of the larger project.

2. Bicyclist and pedestrian facilities are defined as improvements that are above and beyond the normal space, surfaces, pavement markings, and signing that would routinely be incorporated into street design and maintenance for the accommodation of bicyclists and pedestrians. These facilities shall include but not be limited to sidewalks, curb cuts and ramps, marked crosswalks, pedestrian actuated signals, paved shoulders, bicycle route signing, bicycle lanes, bicycle parking facilities, and shared use paths.

3. Bicycle and pedestrian facilities may be planned, designed, developed and maintained in accordance with guidelines adopted by the United States Department of Transportation (USDOT), New York State Department of Transportation (NYSDOT), and the American Association of State Highway and Transportation Officials (AASHTO) or other guidelines approved by the Town of Bethlehem.

4. Whereas, if the Highway Superintendent determines that the inclusion of bicycle and/or pedestrian facilities are unable to be accommodated on a roadway or within Town right-of-way proposed for construction or reconstruction, he/she shall provide said determination in writing, with supporting documentation, to the Town Board for their information. Education and Encouragement: The Town supports the promotion of bicycling and walking for health, fitness, transportation and recreation through events, programs and other educational activities, which benefit residents, students, businesses and visitors of all ages and abilities. These activities can be coordinated with the PATHs 4 Bethlehem Committee, other Town Committees and Departments, local bicycle clubs, schools, health organizations and other partners.

Furthermore, the Town encourages the NYSDOT and Albany County to consider a Complete Streets approach when constructing or reconstructing their respective streets in the Town.

Enforcement: The Town will provide a balanced enforcement of the New York State Vehicle and Traffic Law for motorists, pedestrians and bicyclists. This will include enforcement of pedestrian's right-of-way in crosswalks, bicyclists riding with traffic and all modes sharing the road safely.

Additionally, the Town may consider the use of traffic calming applications as an alternative to bicycle and pedestrian facilities. Traffic calming applications help to physically or psychologically calm motor vehicle traffic behaviors, thereby aiding in the enforcement of a safe environment for bicycle and pedestrian travel.

On a motion by Mrs. Dawson, seconded by Mr. Kotary, and by a vote of 5 for, 0 against and 0 absent, this RESOLUTION was adopted on August 12, 2009.

The following item was to approve the request of the Supervisor to approve demolition and removal of the Town's Lyons Road house located in the Henry Hudson Park. There was a brief discussion of the condition of the house by Deputy Commissioner Deyoe. Supervisor Cunningham thanked Deputy Commissioner Deyoe.

The motion was made by Mr. Kotary and seconded by Mrs. Dawson to approve the demolition and removal of the Town's Lyons Road house located in the Henry Hudson Park as requested by Town Supervisor Cunningham. 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 Director, Karen Pellettier, Senior Services Department to accept a donation from Colonial Golf, Inc. in the amount of \$250.00 for the purchase of music for the Bethlehem Senior Chorus.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to accept a donation of \$250.00 from Colonial Golf, Inc. as requested by Karen Pellettier, Director of Senior Service Department. 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 Board. Comptroller Traylor wanted to clarify the budget modification and the fact that the auditors monitor the Board minutes. She said she asked for approval for the mid-year budget modification and only the General Fund was approved. She said the Water and Sewer was not approved. Supervisor Cunningham said that was correct and noted he wanted to speak with her in regard to that. He said it would probably be in the next meeting so it will be corrected.

The Supervisor asked about new business. Councilman Messina brought up the previous noise ordinance discussion. Supervisor Cunningham noted there was an issue in the Town of Colonie and Town Attorney Potter was looking into this. He noted there were some issues with the proposed language. Town Attorney Potter said he did get in touch with Colonie and they were considering a new ordinance. He said they had an ordinance based on subjective view of what would be offensive noise and they found the Police Officers were having trouble enforcing it. He said they were contemplating going toward a noise ordinance that quantified a violation in terms of decibels. He said he has not had an opportunity to follow-up with their Town Attorney to determine if they have passed it yet or what kind of discussion had occurred in connection with consideration of the new law. He said he will follow-up.

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Supervisor Cunningham made the following announcements:

- August 15, 2009 is the next Community Clean-Up Day. They will be meeting at Geist Brothers on Route 9W at 9 a.m. and takes approximately 3 hours.
- August 16, 2009 is Bethlehem Voyage 400, a Quadricentennial celebration at the Henry Hudson Park. He extended a special thanks to LaFarge for their donation of \$5,000 to fund the event. Thanks was also extended to the Members of the Quadricentennial Committee.
- August 17 and 18 and August 24 and 25, 2009 will be budget workshops regarding the 2010 budget. The Spotlight published the schedule for the workshops and which departments will be meeting with the Board on each of the dates.
- August 18, 2009 the McDonald's will be having a ribbon cutting for their reopening.
- August 22, 2009 is a family day celebration at Cherry Hill for their Quadricentennial event.

Supervisor Cunningham asked if there were any comments on non-agenda items. Mr. Robert Jasinski asked if there is any planning for the landfill once they close it. He said he thinks there will have to be some design structure that will have to take place and equipment may need to be purchased. The Supervisor noted it may be that construction debris will not be taken and just operate as a transfer station. He said Highway Superintendent Sagendorph is working on numbers to decide if there should be a box put at the transfer station. He said it does not pack very well and hauling will have to be done frequently. The Supervisor said one of the things they talked about was if the debris is taken there and moved to another site, the pricing is going to be such that it will not be attractive for people to use the facility.

Mr. Jasinski further asked if the Town is required to have a facility in any way. Town Attorney Potter said he is not aware that the Town is required to operate a landfill at all. He said it is a service the Town chooses to provide and is based on a cost benefit analysis.

Mr. Jasinski asked if debris can be encased in the land where it is taken off of. Town Attorney Potter said he did not think that was allowed and DEC may have something to say about it. Mr. Jasinski suggested he looked up information about this. He thanked the Board.

Councilman Messina said he was looking at Jarod and once again the desire to have more people at the meetings. He said the School Board and the Town Board meet on the same night suggesting perhaps down the road that a night could be changed so people would not have to make a choice and could be at both meetings. Supervisor Cunningham said he thought he was going to invite the School Board to this meeting to meet together.

The Supervisor asked for a motion to adjourn to Executive Session to discuss a legal matter.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve adjourning to Executive Session to discuss a legal matter. 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 7:40 p.m. The motion was carried by the following vote:

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

Noes: None.

Absent: None.

Town Clerk

EXECUTIVE SESSION

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve the settlement regarding Livingston v. Town of Bethlehem. The motion was passed by the following vote:

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

Noes: None.

Absent: None.