

TOWN BOARD
JULY 25, 2007

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
Daniel Plummer, Councilman
Samuel Messina, Councilman
Kyle Kotary, Councilman
Kathleen A. Newkirk, Town Clerk
James T. Potter, Esq., Town Attorney
ABSENT: Joann V. Dawson, Councilman

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Supervisor Cunningham welcomed everyone to a regular meeting of the Bethlehem Town Board and invited them to join in the pledge of allegiance. He asked Councilman Kotary to lead the pledge.

The Supervisor thanked Councilman Kotary. He said they would start with public comment on agenda items. Mrs. Marie Capone asked everyone to check on their agenda where it says Daniel Plummer. Supervisor Cunningham asked what was wrong with it. Councilman Kotary said the 'r' is missing at the end of Plummer. The Supervisor said they would correct that.

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

PUBLIC HEARING: 6:15 P.M. – Pertaining to Road Improvements in the vicinity of the Route 85 bypass

6:30 P.M. – Concerning Water District Extension for the Vista Technology Campus

6:45 P.M. – Concerning Sewer District Extension for the Vista Technology Campus

The first item was the approval of the Town Board minutes of June 27, 2007 and July 11, 2007. The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the Town Board minutes of June 27, 2007 and July 11, 2007 as submitted. The motion was passed by the following vote:

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

The next item was a request from the Town Engineer, Erik Deyoe and GIS Specialist, Jason Baum, for approval of Georegistration of Scanned Engineering Drawings and use of Water and Sewer Operating Budget Funds. Supervisor Cunningham said the purpose of this is to georeference the drawings for our water and sewer infrastructure for the GIS mapping. He said it is a \$40,000 budget item.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the georegistration of scanned engineering drawings and the use of Water and Sewer Operating Budget Funds as requested by Erik Deyoe, Town Engineer and Jason Baum, GIS Specialist.

Councilman Messina asked if the grant obtained for the Local Government Records Management Improvement Fund activity dependent upon this next step of the action or is it independent. Mr. Baum said it is independent, noting it has already been completed. He said this is taking the output of that grant, the scanned

drawings, and putting them into the Geographic Information System. Councilman Messina said great and thanked Mr. Baum.

The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Plummer, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: Mrs. Dawson.

The next item was a request from Comptroller, Judith Kehoe, for approval of Transfer of \$7,400 within the Parks and Recreation for Maple Ridge Park Pavilion. The Supervisor said this is under construction currently.

The motion was made by Mr. Messina and seconded by Mr. Plummer to approve the transfer of \$7,400 within the Parks and Recreation Department budget for the Maple Ridge Park Pavilion. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Plummer, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: Mrs. Dawson.

The next item was a request from Town Engineer, Erik Deyoe, for acceptance of Deed for Maple Avenue Sidewalk Construction – Phase II, drainage easement conveyance.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the acceptance of a deed from Mr. and Mrs. Michael Rapp, Ravena, New York for a drainage easement for the Maple Avenue Sidewalk Construction – Phase II as requested by Town Engineer, Erik Deyoe. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Plummer, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: Mrs. Dawson.

The following item was a request from Highway Superintendent, Gregg Sagendorph, to set a public hearing amending the Code of the Town of Bethlehem, Stop Signs, Delmar Place at Adams Place, Delmar. Could set a public hearing August 22, 2007 at 6:15 p.m.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the setting of a public hearing amending the Code of the Town of Bethlehem, Stop Signs, Delmar Place at Adams Place, Delmar, New York for August 22, 2007 at 6:15 p.m. as requested by Gregg Sagendorph, Highway Superintendent. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Plummer, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: Mrs. Dawson.

The next item was a request from Highway Superintendent, Gregg Sagendorph, for approval of award of bid for biodegradable paper bags to the low bidder, Dano Enterprises, Stamford, CT.

The motion was made by Mr. Plummer and seconded by Mr. Messina to approve the award of bid for biodegradable paper bags to the low bidder, Dano Enterprises, Stamford, CT as requested by Gregg Sagendorph, Highway Superintendent. The motion was passed by the following vote:

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

The following item was a request from Town Engineer, Erik Deyoe, for acceptance of deeds for Troubadour Subdivision, Selkirk.

The motion was made by Mr. Kotary and seconded by Mr. Messina to approve the acceptance of deeds for highway and easement purposes for the Troubadour Subdivision, Route 9W, Selkirk, New York from T. P. Builders, Inc., Albany, New York as requested by Town Engineer, Erik Deyoe. The motion was passed by the following vote:

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

The next item was a request from Senior Planner, Robert Leslie, for approval of amendments No. 4 and No. 5 to Eastmount Planned Residential District No. 9, Building Project Approval No. 16 to allow sunroom/patio enclosures. The Supervisor said there are letters from the neighbors stating they are okay with the enclosures.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the amendments No. 4 and No. 5 to Eastmount Planned Residential District No. 9, Building Project Approval No. 16 to permit sunroom-patio enclosures as requested by Senior Planner, Robert Leslie. The motion was passed by the following vote:

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

Supervisor Cunningham said there were a couple other items that were not on the agenda. The first one is a request from the Chief of Police to authorize a budget modification to increase the insurance recovery revenue line item and to increase the police 43-15 collision account line in the amount of \$4,592.11.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve a budget modification to increase the insurance recovery revenue line item and to increase the police 43-15 collision account line in the amount of \$4,592.11 as requested by Chief of Police, Louis Corsi. The motion was passed by the following vote:

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

The second item according to the Supervisor was a request from the Chief of Police for a budget modification to increase the insurance recovery revenue line item and to increase the police 43-15 collision account line in the amount of \$1,000.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve a budget modification to increase the insurance recovery revenue line item and to increase the police 43-15 collision account line in the amount of \$1,000 as requested by Chief of Police, Louis Corsi. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Plummer, Mr. Messina, Mr. Kotary.
Noes: None.

Absent: Mrs. Dawson.

Supervisor Cunningham said there was one other item that was not on the agenda that he would like to ask. He said it is regarding an agreement with the City of Albany to allow them to use the Fire Training Tower facility. He noted there is an agreement each year for use of the facility Monday through Friday from 9:30 a.m. to 3:30 p.m. for an annual fee of \$3,000.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the Supervisor signing an Agreement with the City of Albany for use of the Kevin M. Shea Memorial Fire Training Facility Monday through Friday from 9:30 a.m. to 3:30 p.m. at an annual fee of \$3,000. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Plummer, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: Mrs. Dawson.

Supervisor Cunningham next asked Mr. Penman to give a brief update on the Dinmore Road trunk line. He noted he was down there yesterday and it looks almost complete. Mr. Paul Penman said that was correct. He said as can be seen from the Memorandum, all the manholes are complete, the pipe is installed and the rough grading has been done. He said they continue to make great progress on it, noting pretty much all of the pipe and the manholes have been installed, as well as, the final rough grading. He said starting at 8 p.m. they will begin the switch over with it working overnight so as of tomorrow, Thursday, the pipe should be active. He said the old main is scheduled to start demolition on Friday.

Mr. Penman said basically completion will be Friday. He said the only thing left will be the final grading and final landscape. He said the contractor will be out of the area by the end of July. He further noted some landscaping will have to be done in September but it cannot be done until that time due to the weather.

Supervisor Cunningham asked about a pipeline above ground. Mr. Penman said that is an irrigation pipe that will be used for bypass. He said when they do the switch over tonight, they will start pumping at the upstream manhole, pump over through that pipe to the downstream manhole so they can cut the existing pipe and connect the new one.

The Supervisor asked about being on schedule, ahead of schedule, behind schedule. Mr. Penman said they are about 3 weeks ahead of schedule. He said the original final completion, not including landscaping, was September 10 and they are scheduled to be out of there August 10. He said the substantial completion which is switching over was due by August 17 and they are on track for tonight. He said about 3 weeks ahead of schedule for substantial and about a month ahead for final.

Supervisor Cunningham thanked Mr. Penman and asked if there were any questions from the Board. Councilman Messina asked if there was anything happening that would affect costs in any way at all, specifically increasing them. Mr. Penman said right now they had a contingency in the budget because one of the unknowns was they had to estimate on the quantities of gravel to be placed for the embankment. He said it turned out that they were a little low on the estimate, however, they do have more than enough in the contingency to cover the increase in gravel. He said overall they are under budget and the other item which they found out in regard to the old pipe having asbestos lining in it, they got the results back and it is negative so they are good on that. He said it appears they will be well under budget.

Supervisor Cunningham thanked Mr. Penman and noted it looks great.

The Supervisor said they are still a little ahead on the public hearing so he continued on with the agenda. He said the public comments on non-agenda items would now be taken. Mrs. Marie Capone said they have all seen in the paper or on television that George Leveille works in Albany so she asked if we are paying his salary to work in Albany with Jerry Jennings. Supervisor Cunningham said Mr. Leveille works here in Bethlehem. He said he is also working on the Convention Authority but he does that on his own time, noting it is not on Town time. Mrs. Capone said it is during the time that he should be working at the Town of Bethlehem. She said then his job becomes a part time job. Supervisor Cunningham said his job is not a part time job. He said a lot of the staff work more than 40 hours a week so sometimes they use the extra comp time they earn working later in one week to work on something else outside of the building. He said actually it is a benefit to both the Town of Bethlehem and Albany County that Mr. Leveille has been heading up this project. Mr. Leveille has been doing a terrific job said Supervisor Cunningham and he is very proud that he is part of the Town and he is doing this work. Mrs. Capone said yes he learned here. Supervisor Cunningham said that was right but he did not think so but they will take credit for it.

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Supervisor Cunningham asked if there were any other comments on non-agenda items. Mrs. Nancy Kneff of Delmar said she came as a result of hearing and seeing a lot about open space plans both in the paper and at the CACC meetings. She said she has some concerns and would like to address them.

Mrs. Kneff said she is hoping to hear from each of the Board Members what additional benefits an open space plan would provide citizens in this Town. She asked why they think the Town of Bethlehem needs an open space plan and why you think it does not. She said before that question is answered, she proceeded to give some background regarding her family owning and operating a farm in Town. She said her children are the 8th generation to live on the farm. She said she and her husband both have additional careers outside the farm because that is what it takes to live and support a family in agriculture these days.

Mrs. Kneff said will it always be a farm as it has been for so many years, that is something that should be decided by her family since they are the ones who own it, farm it and continually pay taxes on it. She said she feels the detriment to her family by outspoken individuals being allowed to lay claim on it, targeting, listing, mapping or any other further regulatory means are simply poor tactics.

Mrs. Kneff said she understands there is a vocal group of open space preservationists that is very active within the Town. She said she does take exception to their use of scare tactics to call for an open space plan for our Town. She said there are so many items of misinformation she would like to address.

Mrs. Kneff said the first is that a fast growing towns in the Capital District all have open space plans. She said so, she felt that facts and figures – she wanted to know do they – so, she called every town in the county of Albany and she called 2 in Rensselaer County and 1 in Saratoga County. She found out that the towns of Guilderland and Clifton Park have... they do not call them open space plans, and they only target a portion of the town. She said no other town in the county or in those other counties has even talked about an open space plan.

Mrs. Kneff said the second piece of misinformation is that the town would have more access to grant funds if it had an open space plan because then grants would become more readily available, they'd see the point. Well, she said, after talking to someone who writes grants for farmland preservation, they said it's not the case. She said the case is it's parcel by parcel. She said you bring forth the project, they review the project and it doesn't care if there is another project across town.

Mrs. Kneff said thirdly, she wanted to address those who say we do not have enough green space and only with an open space plan would we be able to

protect additional areas of green space. She said after attending the most recent CACC meeting, she found it interesting based upon the amount of acreage that the town has in parks and recreation and the population of the town, we're right on target with the statistics that planners have regarding our creation and population. Additionally, she said those figures did not include the 58 acre park that we have down on Simmons Road nor the 200 acres that will become available, not necessarily as a park, but through the Vista project. She said with those amounts added in that exceeds the amount of recreational area through the year 2030 based on the population that is predicted through the Comp Plan.

Mrs. Kneff said the acreage used at the CACC meeting was only based on Town-owned recreational parks but we are still blessed in this Town that there are close to 200 additional acres in non-profit preserve also available to the public – 5 Rivers that we share on the border with New Scotland that exceeds 450 acres. So, it is with excitement that we should be able to say that Bethlehem is well endowed indeed but it doesn't stop there because there is an additional 4,500 acres – 1/7 of the Town acreage -- enrolled in agricultural districts. This is a conservation program sponsored by the Department of Ag and Markets that provides protection for those who continue to use their property for agriculture and isn't that what we are advocating for – willing property owners finding ways to keep their property.

Mrs. Kneff said she thinks the Town is at a fork in the road and on one road lies the open space plan which when boiled down uses regulatory means to control development on parcels in the Town with little regard for the willingness of the property owners. She said it allows those who do not own the property nor make their living from it to craft regulations that can devalue it. She said on the other road is the chance for the Town to stand up for the property rights of the property owners in this Town as was stated as a goal of the Comp Plan and say that we have instituted many conservation ideas in the Comp Plan.

Mrs. Kneff said the topography alone of this Town is such that we will always have areas of constrained lands, perfect wildlife corridors. She said we have active not-for-profits working in the Town to preserve special areas. She said we currently have an abundance of undeveloped land that has no access to infrastructure and, therefore, is not susceptible to sprawl and as a result, at this time, she does not feel we need an open space plan.

Mrs. Kneff said she, obviously, has shown the Board where she stands on this and wonders where each of the Board Members stand on it, what they think about it, have they researched them, have they seen them. She said she is just trying to get some feedback.

Supervisor Cunningham said he would go first because he has been involved in this in the last couple weeks and actually spoke with Mr. Waldenmaier the other day about this. He said right now, they have gotten a lot of letters, as was noted, about open space plans. He said couple things mentioned are farmland preservation and farmland preservation grants. He said an open space plan is not a farmland preservation plan. Mrs. Kneff said no she was just saying that the type of grants that is available for preservation of lands such as farmland. She said that type of grant does not require an open space plan.

Supervisor Cunningham said there may be other grants that have nothing to do with farmland. Mrs. Kneff said she looked at the funding documents that was put together by CACC, noting there is no reference to having to have an open space plan for pretty much any of them. She said if you look at Colonial Acres, it's a perfect example of a project, there it is, the Town says it's available, let's see if there are grants out there. She said they did not come back and say do you have an open space plan, they said let's look at your project. Supervisor Cunningham said it is the Open Space Institute that is giving the Town the money for that. He said the other thing that is being emphasized over and over again and he knows it is a Tier II recommendation of the Comprehensive Plan to do this is that any space that is involved in an open space plan would be with willing landowners. He said if you are a farm and you don't want to be involved in this, you are not involved in it. He

said your land is not identified as open space, you are not an open space participant, it doesn't affect you.

Mrs. Kneff said her concern is the way open space plans are written. She said the traditional open space plan, if you go on line you can research them, it's not so much that she would not be affected, she would because restrictions would be put upon through doing a whole Town plan, what you can do with certain areas of the Town. She said that is just the nature of an open space plan.

Supervisor Cunningham said again, anything they do is going to involve willing landowners. He said what Mrs. Kneff is talking about is done through zoning. Mrs. Kneff said that is what she is saying, isn't there enough. The Supervisor said if there was a piece of land within a Town you are always subject to what the Town is doing. So, he said, you can't be an island unto yourself there. Mrs. Kneff said she agreed. The Supervisor said in that regard, they will be participating together in this but, as he said, it is not his intent to involve farms or any piece of privately owned land that doesn't want to participate or be involved in an open space plan. He said as was pointed out, there is a lot of open space in Bethlehem. He said some of it the Town owns and some of the Town hasn't even developed, like the Simmons property. He said those things should be identified and get developed so they are available to residents to enjoy.

Mrs. Kneff said that part of her concern is by calling it an open space plan you are kind of falling into what an open space plan is by definition through like the Open Space Institute. She said if you want to identify parcels in the Town and do a whole separate thing, she might be... her concern is once you call it an open space plan it takes on a whole new overlays, restrictions regarding streams, steep slopes that are more restrictive than the ones that already exist in the zoning. She said that is her concern.

Supervisor Cunningham said he appreciated the concerns and actually he was going to call Mrs. Kneff to sit down and talk about this anyway. Mrs. Kneff said feel free. Supervisor Cunningham said he will be calling.

Councilman Messina said a couple comments, first of all his feeling about what they currently call an open space plan really doesn't have much definition until goals are set for the plan and methodology, process, parameters are approved, so Bethlehem's open space plan as he looks at it can have the priorities that we set. He said it has to have some general characteristics of all land use planning but he thinks they have a lot of control there that will be done in a public environment.

Councilman Messina said the second point was when he thinks about open space plans, he is not just thinking about large parcels because what came through in the Comp Plan was an even greater interest in potential trail systems, rail to trail and also smaller, if you will, pocket parks areas in various parts of Town that could be developed so it is a more comprehensive thing than just big junks of land.

Mr. Messina said having worked with the Department of State for about 25 years before retiring and also with Environmental Conservation before that, I can assure you that while maybe the Farm Bureau doesn't consider an open space plan in terms of grantsmanship. He said most other agencies he knows do, as a matter of fact, it's quite on the top of the list and when he looks back on the report prepared by CACC he thought they did mention in there that one of the reasons the Town Board could go forward with an open space plan is because it is considered important when you pursue some grants.

Mr. Messina said the last point he would like to make relates to the core of what he hears a lot. He said the notion of willing landowners, the notion of where the Town Board is in terms of moving forward. Again, he said, he has to assure everyone that they are committed not to trample on the rights of landowners, to do things in a collegial fashion and, as far as he was concerned, if a landowner isn't willing it doesn't go forward. He said he also understands when is being said about when you do planning and zoning, you do have an impact on the value of land generally speaking or you could have. He said the studies he has seen have pretty

much demonstrated that what people sometimes believe are going to be negative impacts on the value of their land, turn out to be positive impacts in terms of its worth and even it's sales potential. He said if that is a family or individual's choice down the road.

Mr. Messina said he guesses he is asking for something. He said what it is is to trust that what at least 5 years of Town Board Members under a previous administration and now this administration have said and that is we'll do this with respect, interested in everyone's rights but they are also interested in planning for the Town. He said he does not know what an open space plan is going to look like in this Town but he does believe there are many elements of the quality of life here that could be improved by good planning without hurting people.

Supervisor Cunningham asked if the other Board Members wished to make any comments. Councilman Plummer said he thinks first of all his position is very clear and represented it as being opposed to taking land from unwilling landowners. He said he would oppose any kind of proposal that came forward that advocated for that. He said he has opposed mapping in the past from unwilling landowners, indicating they know that, they have heard him say that. He said he has not changed his position. He said he thinks that it is the kind of thing where when you have the opportunity like they have had with Colonial Acres, once this closes which he said hopefully will be next month, that's the kind of thing the Town always has to be in a position to be able to act quick and do. He said if a plan were adopted by them and it would impose any kind of restrictions on something like that, he would be concerned about that. He said he thinks there needs to be a balance struck. He said he thinks one of the best things to do is to agree to establish certain goals and then try to go about implementing those goals. He said you have to be able to do that because he would never want to be in a position, for example, if Colonial Acres came along and they had restricted the Board to be able to go out and get money to purchase that but speaking for himself, he wanted to make it clear that he will not advocate or support any kind of plan that is going to take land and money from unwilling landowners. Mrs. Kneff said she does not really have a concern from most of the landowners nor a concern that eminent domain is ever going to come into play but the problem is when you have letters being written saying hey you know, I love the Kleinke farm or I love that... why isn't that preserved forever, she feels like she has to stand up and say hey hello.

Councilman Plummer said he is not talking about eminent domain, he is talking about an open space plan that would impose the restrictions that you are talking about. Mrs. Kneff said like overlays and stuff like that. Mr. Plummer said he is not supportive of that but at the same time, it does not bother him noting he receives letters from a lot of people advocating an open space plan. He said he thinks if there is an opportunity to preserve land they should do it. Mrs. Kneff said that is what she is talking about, if an opportunity presents itself then the Town Board should look at the fiscal situation and say okay. Mr. Plummer said he does not fault people for writing asking for that. He said in most people's minds, an open space plan is preserving the land that you can. He said he does not think it is to the extreme that Mrs. Kneff is indicating because most people that talk about open space plan, have not investigated it to the degree that she has and realized that it includes certain things that would be an imposition. He said most people want to be able to, where they can, stop development and slow it down and/or preserve land where they can. He thinks the Town should make sure that we are in a position where when there are opportunities like Colonial Acres and the Vista Park, where there is talk about doing certain trails, or if there are opportunities to make certain connections to try to advance those as best they can.

Councilman Kotary said the problem with going last is that most everything has already been said. He said the good thing is that I get to be concise and he would just simply highlight a couple things everybody has said and one is that he thinks it is important to keep in mind that whatever you call it – an open space plan or something else – is a clean slate as Councilman Messina said now. He said they have an opportunity to do just like they do with the Comp Plan to include the community and to allow the community to determine what should go into that. He said the open space plan was already identified by the community as a priority and

certainly there were many differing opinions as to what is meant by an open space plan. He said he thinks the way he looks at it is an open space plan is, in fact, a plan and it is allowing the community to plan for the future to better manage growth in the future and to make decisions as to not only what types of potential preservations lands or recreational lands you are going to have but to also set a plan or a working order in which to get there.

Mr. Kotary said a bigger problem, he thinks, is to not do anything or to simply say they do not like what other communities have done and not like it, the concept not to do anything. He said he agrees with what everybody else said in terms of the point of this is not to infringe on anyone's rights or to restrict what people can do with their land but is merely an opportunity to be able to plan and to focus on initially. He said he thinks this is what a lot of people, those who right now seem to be in favor right now of an open space plan and those who right now seem to be opposed to it before the content is even discussed. He said he thinks what everybody can agree on is that something should be done. He said he thinks that, as Sam suggested, if everyone can agree to start the conversation there and be willing to work with one another and listen to one another, he thinks it is important to start, if not, continue that conversation. He said that is what he would say.

Mrs. Kneff said she is just going to leave it on this note, is that she hears what all of the Board Members have said and she has nothing against planning, indicating farming is basically planning for the future, but you know, living with what they get. She said it would be great, when and if the Board decides an open space is what you would like that you get down to the nitty gritty with whoever you are asking to do it. She said there are a lot of groups in Town that she feels are so fixated on preserving that they are missing the fact that things change we have to be flexible. She said if we are going to move forward, it cannot be preservation, it has to be something everyone can live with. She thanked the Board.

Supervisor Cunningham thanked Mrs. Kneff.

Mr. Norman Moran said he would like the Board to appoint a Civilian Police Review Board. He said he was in an automobile accident January of last year, he was rear ended on Route 85. He said he spoke with the Police Department about it and Officer Shunk responded to that accident along with another officer. He said the younger officer was very polite, real credit to the Town. He said Officer Shunk came along, walked up, stuck his face right in mine and said who owns that car. He said he told him he did. Mr. Moran said the officer asked what happened. He told the officer and Officer Shunk said to tell him. Mr. Moran said he turned around and the Officer said driver's license, registration and insurance card. He said he does not have it. The officer asked what he meant that he did not have them. Mr. Moran said he explained the other officer had them. Officer Shunk then walked away from him, as per Mr. Moran, who proceeded to walk away. Mr. Moran said the officer then asked where he thought he was going. Mr. Moran said he commented that he needed the insurance information from the other driver.

Officer Shunk then proceeded to tell Mr. Moran to get back in his car, according to Mr. Moran. He went back to his car and the officer came toward him with a breathalyzer and said he had to take a test. Officer Shunk than said either take one or he would lock him up, Mr. Moran said. Mr. Moran said he proceeded to blow into it and nothing registered. Mr. Moran said the man who hit him had just had an operation on his shoulder 2 days before and he asked the officer said the officer then turned around and said that was none of his business. Mr. Moran said he told the officer he thought it was and commented about the breathalyzer test and the fact that the other driver should also take the test and a drug test because he probably is taking some kind of medicine for the shoulder. The Officer again noted that was none of his business, it was a police matter, according to Mr. Moran.

Mr. Moran said the officer got the information and he was sitting in a car and the officer threw the documents in the car. He said he called Monday morning to the State Police and asked about the breathalyzer test and when a person has to take it. He said the State Police told him if a police officer smells alcohol on a

person, if you are staggering or slurring your voice, this is the basis for it. He said he told the State Trooper what happened and his comment was that he should not have had to take the test. He said he mentioned to the Trooper that he was told to take it or get arrested. The Trooper in turn said it was good that he took the test, according to Mr. Moran.

Mr. Moran said he tried to call the Chief of Police on Monday and there is a chain of command. He said if he calls the Supervisor, the Supervisor calls him back or anyone in the Town Hall and they call back. He said the Chief of Police has his sergeants, lieutenants and whoever else in there. He said he told them it was a personal matter and he asked to talk to the Chief of Police. He said they would not let him talk to the Chief.

Mr. Moran continued that he called Theresa Egan and she had the Chief of Police call him. When he spoke with the Chief, Mr. Moran said he told the Chief what had happened and that was the end of the conversation. He said the Chief did not say he was sorry or apologize for the officer. He said he thinks it is very poor treatment of a person in this Town.

Mr. Moran said later in the year he was going on the Thruway and a police car came barreling up next to him, speeding like mad and the road turns off and the car slammed on its brakes, cuts him off and when he went through the turnstile, the car cuts back in front of him. He said he called the Chief of Police about that, asking what the police officer was doing there in the first place and reckless driving. He said the Chief asked if it was maybe a Rotterdam police officer. Mr. Moran said he gave the number on the plate and it was a Bethlehem police car.

Mr. Moran said he thinks there have been other complaints and he thinks it is time to have a review board for the conduct of the police. He said this should be acceptable to the Chief of Police. He noted he does not agree with it and he does not think the Board would agree either.

Supervisor Cunningham asked if anyone had any feedback. He thanked Mr. Moran for his comments. Mr. Moran again asked about setting up a board. The Supervisor said he would not commit to that at this point. Mr. Moran asked if he would like him to write a letter on it. Mr. Moran said he was asking the Board and further asking if they are taking the same position as the Chief, that the police can abuse the people of the Town and no response to it. Supervisor Cunningham said there are no intent to abuse citizens of the Town and right now, he cannot comment because he did not have enough information and it would be inappropriate. Mr. Moran said he just provided all the information, in fact, the Chief of Police turned around and he recommended this guy be promoted to a Sergeant and the Board approved it. He said he was sorry he was not at the last meeting because he would have put his 2 cents worth in. He said he did not think that person deserved to be promoted. He said he does not know what the credentials of the woman bypassed were or anything but he is certain or he does not think she treats the public the way he did. He again asked about the fact that the Board has no comment on this.

Councilman Messina said he thinks in the very least, Mr. Moran has made what he considers serious suggestions, a review board. He said the Supervisor does not have information, he hasn't discussed it with the Chief and obviously there are some things he has to do to even consider any of this. He said as a taxpayer you should not want them as Board Members to be able to say yes or no, right now, tonight. He said it would not be right. Mr. Moran said just like he just said, he got no positive results from the Chief of Police and if he cannot get a decent response from him, then he wants a response from somebody.

Supervisor Cunningham thanked Mr. Moran. Mr. Moran said he is going to write a letter on it and if there is no response on it, he will write the newspapers about it. Mr. Moran thanked the Board. Supervisor Cunningham thanked Mr. Moran.

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

Mr. Kotary made a motion to close the public comment period on non-agenda items. Mr. Messina seconded by motion and it passed by the following vote:

Ayes: Mr. Cunningham, Mr. Plummer, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: Mrs. Dawson.

Supervisor Cunningham reported briefly on the Comprehensive Plan Oversight Committee. He said back on April 25 the Board approved the formation of a Comprehensive Plan Oversight Committee. He said there have been 3 regularly scheduled meetings, one held on June 21 and July 12 and July 26. He said after that a public meeting will be held to obtain public comment and input on the committee's draft report. He said the committee plans to provide a full narrative report to the Board and a final summary report for public ease of reading. He said the full report will be pretty thick and comprehensive. He said the schedule for the meetings, July 26 and the next meeting will be published draft narrative, August 15 and the next meeting will be presentation of the draft report and a public meeting on the draft report which will immediately follow the Town Board meeting on August 22. He said on September 6 they will have a committee meeting to finalize the report and present final recommendations to the Town Board on September 26. He said the final report should be published on October 1. He said all of these, indicating the public meeting will be held by the Board but the other meetings are open to the public. The room is 101 at 8 a.m. He said these dates and information are posted on the website.

The Supervisor mentioned this Saturday will be a community clean-up day from 9 a.m. to 11 a.m., meeting on Delaware Avenue. He said the community clean-up day is scheduled once a month. He noted there are very few volunteers this month and asked anyone who could to please volunteer. He said Councilman Kotary will be running the community clean-up day. He said if anyone is interested in volunteering please contact Kim Ryan in his office.

The Supervisor next encouraged residents to sign up for the electronic newsletter. He said there has been one once a month and it has all information on things going on around Town, previous things that have happened and things planned for in the future. He said the newsletter email list is also being used to communicate information to Town residents. He said it is one means of getting information out. He said one thing that was communicated this week is that this Friday, July 27, Blessing Road will be closed from Route 85 with a detour. He said that closure is scheduled for 8 weeks. He said please be prepared for that and in 8 weeks, hopefully, there will be a roundabout. Question was raised if there was a printed copy of the email newsletter for persons not having access to the email. Supervisor Cunningham said there are none, noting it was designed as an electronic newsletter. Note was made that there are parts of the population being cut out. Supervisor Cunningham said the Report is put out on a quarterly basis also that has this information. He said again they are trying to communicate every means possible. Suggestion was made there are copies made available at Town Hall.

Supervisor Cunningham said there is one other item before the public hearing. He said that on August 9 beginning at 10 a.m. the Town of Bethlehem will be hosting what is called The Wall That Heals. He said it is a replica of the Vietnam Memorial. He said this will be on exhibit at the Town Park facility. He said the opening ceremony will be on August 9 at 10 a.m. and the wall will be open for exhibit 24 hours a day for the remainder of the time which will go through August 12.

Councilman Messina said this is a pretty big production noting the wall is 270 feet long and comes here on multiple tractor trailers and that will arrive on the 7th of August. He said they will be looking for people to volunteer. He said if you go to the website or contact him or the Supervisor or the Administrator of the Parks and Recreation Department and Bob Jasinski is also helping. He said they are looking for volunteers to be readers, escort people up to the wall to find names if they have trouble doing so and lastly there will be some people who will be working at the computer doing searches to help folks find names of people that lost their lives in Vietnam. He thinks this should be a special occasion and lots of volunteer opportunities.

Supervisor Cunningham said there was one other item that he did not do and that was to acknowledge receipt of the 2006 Annual Report from the Bethlehem Police Department. He asked if the Board had any comments or questions for the Chief of Police.

PUBLIC HEARING: 6:15 P.M.

SUPERVISOR CUNNINGHAM: I'd like a motion to waive the reading of the call of the meeting and a motion to indent Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting.

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. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Plummer, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: Mrs. Dawson.

NOTICE OF PUBLIC HEARING

At a meeting of the Town Board of the Town of Bethlehem, held at the Town Hall, Bethlehem, New York, on June 27, 2007, a Resolution/Order was adopted by the Town Board accepting a petition, in due form and containing the required signatures, requesting the construction of certain roads in the vicinity of the Route 85 bypass in the Town.

The costs of said road improvements would be borne by local assessment upon the several lots and parcels of land which the Town Board shall determine and specify to be especially benefited by the improvements, said assessment to be collected from the several lot and parcels of land so deemed benefited, so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same. The improvements proposed are shown on a map of the Vista Technology Campus, Public Road/Phasing Plan, created by Saratoga Associates, dated June 2007, and include (Phase I): A pro-rata share of a roundabout intersection on the Route 85 bypass; 400 linear feet of four-lane boulevard road, 2,900 linear feet of two-lane boulevard road and 2,400 linear feet of sidewalks, and (Phase II): 3,000 linear feet of two-lane road and 3,100 linear feet of sidewalks. The maximum amount to be expended for the improvements as stated in said petition is Four Million One Hundred Forty-Seven Thousand Eight Hundred Dollars (\$4,147,800). The area to be benefited as stated in said petition consists of Tax Parcel Nos. 74.00-1-29.1, 74.00-1-30 and 74.00-1-60. A meeting of the Town Board will be held at the Bethlehem Town Hall, 445 Delaware Ave., in the Town of Bethlehem on July 25, 2007, at 6:15 p.m. to consider the petition and to hear all persons interested in the subject thereof and the vote of the Town Board thereon.

Dated: Bethlehem, New York July 11, 2007

John H. Cunningham, Supervisor

Daniel Plummer, Councilperson

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

Joann Dawson, Councilperson
Sam Messina, Councilperson
Kyle Kotary, Councilperson
Members of the Town Board
of the Town of Bethlehem
Kathleen A. Newkirk, Town Clerk

- - -

State of New York)
County of Albany)

The undersigned is the printer (or publisher) of SPOTLIGHT, a weekly newspaper published in Delmar, New York. A notice regarding Notice of Public Hearing was published in said newspaper once in each week for 1 successive weeks, commencing on 7/11/07 and ending on 7/11/07. The text of this notice as published in said newspaper is as set forth below, or in annexed exhibit. This newspaper has been designated by the Clerk of Albany County for this purpose.

The Spotlight
 Colonie Spotlight
 Guilderland Spotlight

/s/ Kristina Maldonado, Designee of Printer

Sworn to before me this 23rd day of July 2007.

/s/ Sharon A. Doldo, Notary Public, Onondaga County

- - -

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

COLLEEN HUMMEL, being duly sworn, deposes and says that she is the Deputy Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on July 11, 2007, a Notice of Public Hearing, a copy of which is hereto attached, 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 July 2007.

/s/ Julie S. McNeil
Notary Public

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NOTICE OF PUBLIC HEARING

At a meeting of the Town Board of the Town of Bethlehem, held at the Town Hall, Bethlehem, New York, on June 27, 2007, a Resolution/Order was adopted by the Town Board accepting a petition, in due form and containing the required signatures, requesting the extension of Water District No. 1 in the Town. The boundaries of the proposed Extension are shown on a map of the Vista Technology Campus, Water Distribution Plan, created by Saratoga Associates, dated June 2007, and described in Schedule A, annexed hereto. The Extension of the District will allow the construction of new water mains, valves, hydrants and their connection to existing Town water mains to service properties within the Extension. The costs of said improvements would be borne by local assessment upon the several lots and parcels of land which the Town Board shall determine and specify to be especially benefited by the improvements, said assessment to be collected from the several lot and parcels of land so deemed benefited, so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same. The maximum amount proposed to be expended is One Million Ninety-Four Thousand Dollars (\$1,094,400). The estimated cost of hook-up fees is one thousand dollars (\$1,000). The cost of the Extension to the typical property within the Extension is estimated to be Thirty-Five Thousand Dollars (\$35,000) per year.

A meeting of the Town Board will be held at the Bethlehem Town Hall, 445 Delaware Avenue, in the Town of Bethlehem on July 25, 2007, at 6:30 p.m. to consider the petition and to hear all persons interested in the subject of the

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proposed Extension of Water District No. 1 and for any other action concerning the petition and the vote of the Town Board thereon.

Dated: Bethlehem, New York July 11, 2007

John H. Cunningham, Supervisor
Daniel Plummer, Councilperson
Joann Dawson, Councilperson
Sam Messina, Councilperson
Kyle Kotary, Councilperson
Members of the Town Board
of the Town of Bethlehem

Kathleen A. Newkirk, Town Clerk

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/s/ Kathleen A. Newkirk
Town Clerk

Sworn to before me this
25th day of July 2007.

/s/ Julie S. McNeil
Notary Public

NOTICE OF PUBLIC HEARING

At a meeting of the Town Board of the Town of Bethlehem, held at Town Hall, Bethlehem, New York on June 27, 2007, a Resolution/Order was adopted by the Town Board accepting a petition, in due form and containing the required signatures, requesting the construction of certain sewer mains and laterals within Sewer District Extension No. 14 (Area 1) in the vicinity of the Route 85 bypass in the Town. The proposed improvements are shown on a map of the Vista Technology Campus, Sanitary Sewer System Plan, created by Saratoga Associates, dated June 2007. The costs of said sewer mains and laterals would be borne by local assessment upon the several lots and parcels of land which the Town Board shall determine and specify to be especially benefited by the improvements, said assessment to be collected from the several lots and parcels of land so deemed benefited, so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same. The improvements proposed include the construction of sewer mains and laterals to provide sewer service to the benefited properties (estimated cost of \$1,883,187) and a pro-rata share of certain off-site improvements that will facilitate such service (estimated cost of \$799,393). The maximum amount to be expended for the improvements as stated in said petition is Two Million Six Hundred Eighty-Two Thousand Five Hundred Eighty Dollars (\$2,682,580). The estimated cost of hook-up fees for

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industrial users is one thousand dollars (\$1,000), and the estimated cost of hook-up fees for commercial users is seven hundred fifty dollars (\$750). The area to be benefited as stated in said petition consists of Tax Parcel Nos. 74.00-1-29.1, 74.00-1-30 and 74.00-1-60. A meeting of the Town Board will be held at the Bethlehem Town Hall, 445 Delaware Ave., in the Town of Bethlehem on July 25, 2007, at 6:45 p.m. to consider the petition and to hear all persons interested in the subject thereof and the vote of the Town Board thereon.

Dated: Bethlehem, New York

John H. Cunningham, Supervisor
Daniel Plummer, Councilperson
Joann Dawson, Councilperson
Sam Messina, Councilperson
Kyle Kotary, Councilperson
Members of the Town Board
of the Town of Bethlehem

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Notary Public

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SUPERVISOR CUNNINGHAM: Did you want to, Bill, make any comments on that?

MR. HERBERT: Good evening. I'm Bill Herbert with BBL Development and I thought I would do a very brief reintroduction of why we are here with the special assessment district public hearings. We basically have on site public roads, water and sewer that will be constructing throughout the Vista project site, several thousand lineal feet of boulevards and secondary roads and again, water and sewer to facilitate the development of the building. There are some off site improvements that are obviously required including the construction of the roundabout to access the site, as well as, utilities that will be brought from parts away from Vista up to Vista. That is all part of the improvements for water and sewer as well. And, there are some sewer improvements that we will do for the Town that are remote from the site and will be required to allow for future development including the Vista site that is factored into the sewer costs in that extension. Phil Dixon is with me, he is an attorney with Whiteman, Osterman, Hanna and I thought he could give you a little more of the detail of the special assessment districts. Thank you.

SUPERVISOR CUNNINGHAM: Great, thanks.

MR. DIXON: Good evening. Basically the 3 districts... well the 3 petitions that you have before you and that we're having the hearing on right now, 1 would extend Water District Number 1 to encompass this area. A second one... this area is within your Sewer District Extension Number 14 area number 1. So, the second petition asks for the construction of sewer laterals within that extension district and the 3rd as Bill mentioned deals with the roads, including the roundabout and all of this infrastructure will become Town public infrastructure upon its completion.

Basically the costs of this work, if the Board decides to approve the petitions at a subsequent meeting, would be bonded but the charges would go against only those properties – basically the signatories to the petitions – the benefited properties would be the same properties that would be assessed. So, for instance, if it was bonded over 20 years, those properties would basically have a special assessment which is why it is called special assessment districts for the next 20 years.

One of the things that we have discussed with the Town and will come up with a form that is satisfactory to the Town Attorney and the Town as well is a one or more letters of credit that would basically assure the Town that particularly in the early stages while much of the property is undeveloped that the Town will basically have no risk of the bonds and the borrowing for that infrastructure not being paid. The letters of credit presumably over time as the property is developed and there are buildings of significant value, that then provide assurance that there is a tax base there to continue to pay. But, the goal would be to make sure that at no point during any of the borrowing would the Town itself or its taxpayers at large face any risk at all.

One last note, I should note also that the applicant will also just be putting in the application with the IDA and there will probably be a notice of public hearing and that. That's in the very early stages but again right at the moment just to figure out what is... makes the most, ultimately makes the most economic sense it seemed prudent to do that as well. But, in the mean time, we will also proceed with the special district.

SUPERVISOR CUNNINGHAM: Are there comments on the special assessment districts from the public?

MR. KING: Jarod King, 22 Paxwood Road. I am gratified that there will be a performance bond and surprised that many times the Town has not required that of large construction projects so if you are requiring that it is a great thing. Thank you.

SUPERVISOR CUNNINGHAM: Thank you, Jarod.

MR. KONTOGIANIS: Constantine Kontogianis, 12 Shank Place. Really just some questions on this. How long is the public comment window open for?

TOWN ATTORNEY POTTER: I think it closes at the conclusion of the hearing.

MR. KONTOGIANIS: Okay. The projection... is there any projected term or interest rate on the debt service going back basically the service the municipal bond?

SUPERVISOR CUNNINGHAM: I am not clear on the question here. Are you saying that do we know what the term and rate would be?

MR. KONTOGIANIS: Is this going to be a 40 year? Is this going to be financed by serial bond?

SUPERVISOR CUNNINGHAM: That hasn't been established yet.

MR. KONTOGIANIS: Okay. All right. Is that map available electronically on the

web, anywhere else?

SUPERVISOR CUNNINGHAM: Bill, is this map available electronically anywhere?

MR. HERBERT: I don't know if it is.....

MR. KONTOGIANIS: It's subsequent to it, it's June.

MR. HERBERT:

MR. KONTOGIANIS: Okay. The reason why I just didn't see the June 2007 map on the website. That's the reason why I was asking that.

And, looks like... that's just about my question. The other specific question that I had was pertaining to the road, special assessment district.

SUPERVISOR CUNNINGHAM: Vista Drive?

MR. KONTOGIANIS: Well, there's 3 public hearings and I'm really not sure which one we are at right now.

TOWN ATTORNEY POTTER: Actually we're doing all 3 simultaneously because all the comments relate to each, to one project.

MR. KONTOGIANIS: Just the last question on that was it did identify that Vista would be compensating for a pro rate share of the development and I wondered if there are other parcels that are slated to be served by that roundabout.

SUPERVISOR CUNNINGHAM: No. There are none at this point to my knowledge.

MR. KONTOGIANIS: All right, that's it. Thank you.

SUPERVISOR CUNNINGHAM: Thank you. Additional comments? Can I have a motion to close the public hearing?

The motion was made by Mr. Messina to close the public hearing.

SUPERVISOR CUNNINGHAM: I'm sorry.

MR. DIXON: Just one thing to clarify in case anybody is... this is merely the public hearing tonight. The financing and everything will be worked out in the future assuming the Town Board decides to go forward.

SUPERVISOR CUNNINGHAM: Great, thank you. Is that okay, have any questions? Okay. Motion to close the public hearing.

The motion was seconded by Mr. Kotary to close the public hearing at 7:10 p.m. and passed by the following vote:

Ayes: Mr. Cunningham, Mr. Plummer, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: Mrs. Dawson.

Town Clerk

The motion was made by Mr. Plummer and seconded by Mr. Messina to adjourn the regular Town Board meeting at 7:15 p.m. The motion was carried by the following vote:

Ayes: Mr. Cunningham, Mr. Plummer, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: Mrs. Dawson.

Town Clerk