

TOWN BOARD
DECEMBER 9, 2009

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

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

Supervisor Cunningham welcomed everyone to a regular meeting of the Bethlehem Town Board and invited them to join in the pledge of allegiance led by Town Attorney, James Potter.

The first item was for public comments on agenda items. Mrs. Marie Capone noted there was the creation of a job for Kim Ryan, noting the Supervisor had said there was a job freeze, asking what happened. Supervisor Cunningham noted the job was in the budget for 2010. He said when the budget was done for 2010, it was a position that was created. Mrs. Capone said it was never talked about.

Mrs. Capone said there was a woman that stood at the meeting about 2 or 3 weeks ago and asked if the Supervisor would consider not taking a raise of salary. She said the lady had to ask 3 times before he said no. Supervisor Cunningham said he was not going to have a salary so it does not matter. Mrs. Capone said Sam Messina was asked and he responded yes.

Mrs. Cindy Radliff of Selkirk asked if the agenda was all she could talk about now. The Supervisor noted agenda items now and non-agenda items at the end of the meeting. Mrs. Radliff said she was not sure. Supervisor Cunningham said the public hearing stuff can be done during the hearing.

There were no further questions on agenda items.

HEARING BEGAN: 6:10 P.M.

SUPERVISOR CUNNINGHAM: Could I have a motion to waive the reading of the Call of the Hearing and indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes.

The reading of the call of the hearing was waived on a motion by Mr. Messina and seconded by Mrs. Dawson to waive the readings 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. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.
Noes: None.
Absent: None.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING

TOWN OF BETHLEHEM, ALBANY COUNTY

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on December 9, 2009 at 6:00 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider proposed Local Law amending the Code of the Town of Bethlehem, Chapter 91, Sewers.

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 518-439-4955.

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

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

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

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

/s/Kathleen A. Newkirk
Town Clerk

Sworn to before me this

25th day of November, 2009.

/s/ Julie S. McNeil

Notary Public

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SUPERVISOR CUNNINGHAM: Josh, can you come up and give us a run down on Chapter 91, Sewers?

COMMISSIONER CANSLER: Sure. The Sewer Code was originally created or updated last in 1986 and there has been a lot of changes in State and Federal regulations since then. So, we felt it was time to update our Sewer Code here so it coincided with a lot of the regulations that are already out there.

Biggest change with the Sewer Code and we helped... we hired Malcolm Pirnie to help us write this... is at the end of the Sewer Code when we talk about pretreatment of industrial waste regulations have changed significantly since 1986 on that and our Sewer Code from then didn't really cover that at all. I mean we had a couple small paragraphs about it. If you look at the new Sewer Code, we have several pages on pretreatment requirements for industrial waste that starts in section 91.44 of the new code. It goes on for several pages. I am not going to get into any of the details of that.

Most of the Sewer Code especially how it applies to residential users and developers hasn't changed really much at all except for the very beginning of the Sewer Code where we added a little meat, as far as, enforcement violators of the Sewer Code. Originally when the Sewer Code was written in 1986, it talked about what some of the requirements were, as far as, hooking in and connection to the sewers but didn't really discuss what we would do or what our enforcement capability was if someone violated it. So, we put some deadlines in there, some notice procedures and we also added a couple things that have changed since then. Obviously, technology has changed a little bit since then we added a requirement for video inspections and things like that and we included a disclaimer as well for the Town. So, that is the biggest change and you find all that in Section 91.7 to 91.12.

The rest of it is pretty much unchanged. Again, the biggest change is the pretreatment changes for industrial users.

SUPERVISOR CUNNINGHAM: And, what was... can you just give us a kind of

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overall how we enhanced that, the pretreatment requirement?

COMMISSIONER CANSLER: Well, like I said, we hired Malcolm Pirnie to help us out and write that because we weren't really up to speed on it as well. It really got into... let's see if I've got it here because I mean I don't want to read the whole thing to everybody here.

SUPERVISOR CUNNINGHAM: What was lacking here that they put in?

COMMISSIONER CANSLER: Well, there were no established standards back then in our Sewer Code as far as, what the requirements were for the industrial users so we added that to our Code. Added some limits on a lot of different chemicals that industrial users are allowed to put into the system and that was the biggest change.

Did you want to add anything, Erik? I know you were involved with Malcolm Pirnie on that.

TOWN ENGINEER DEYOE: I think the only thing I would add is if the limits that were put into the Code or this version of the Code were there not only to address regulatory issues but also to protect our plant from what... we have no control over what the waste stream is. So, they are in place now only to meet the regulatory agencies requirements but also to protect the plant from discharge that may be disruptive.

COMMISSIONER CANSLER: Does the Board have any other questions?

COUNCILMAN DAWSON: Josh, I know you mentioned that you worked with the consultants on drafting this but has anyone reached out to some of the interests in Town, like the industries.

COMMISSIONER CANSLER: I don't know that we specifically reached out the industries per se. Again, a lot of what we write is based on guidance from the State and Federal agencies and just putting that into our own Code. I don't think anything in here will surprise any of the industrial users and the reality is most of the limits in here... first of all, most of them don't have any problem meeting these limits and second of all their limits are already set on the State and Federal levels for the most part. As Erik pointed out earlier or just a minute ago, the main goal here is to protect our plant because our plant only has certain capabilities. You know, every plant is a little bit different so we wanted to ensure by going with the consultant that the limits that we set in here were adequate for the capabilities of our plant.

COUNCILMAN DAWSON: Thanks, Josh.

COUNCILMAN KOTARY: I have a quick question, Josh, and that is and maybe it is a question for Erik. With storm water that we have been working on... the storm water regs, is this something that we'll have to enhance again at some point in terms of storm water.

COMMISSIONER CANSLER: Well, we established our own storm water laws as you remember a couple years ago which are part of the Town Code as well is this.

COUNCILMAN KOTARY: Right.

COMMISSIONER CANSLER: They do these... the Sewer Code and the storm water regs do work hand-in-hand with each other and I believe, you were here when the storm water part was written. Sewer Code was taken into account when they wrote that.

TOWN ENGINEER DEYOE: Yeah, the Sewer Code was taken into account. The that the Town does not have a combined sewer system. We have a separate storm system from our sanitary system as opposed to a lot of the older cities where you have a mix of waste streams together. There is not a tremendous amount of

crossover between the 2. There are prohibitions in the Sewer Code from users hooking up sump pumps and alike into the sanitary sewer system to reduce inflow and reduce the load on our own wastewater plant. Those remain in effect as they were before.

COUNCILMAN KOTARY: Got you. Thanks, Erik. Thanks, Josh.

SUPERVISOR CUNNINGHAM: Okay. Does the Board have any more questions of Josh? Okay. Good. Okay, is there a comment from the public on the amendments to the laws?

MRS. RADLIFF: My name is Cindy Radliff. I live in Selkirk. I just wanted to know -- Josh, you said something about it might affect the residents if they don't hook up in time, is that correct?

COMMISSIONER CANSLER: Only if...

SUPERVISOR CUNNINGHAM: Josh, can you step up to the microphone so that they can pick everything up please.

COMMISSIONER CANSLER: The way the Sewer Code reads is if there is sewer available in front of your house, you are required to hook into it. That's no change then from the 1986 code and that is what that addresses, people who have sewer available. If you don't have sewer available obviously it does not have an impact on you.

MRS. RADLIFF: Okay, so...

SUPERVISOR CUNNINGHAM: Can you step up to the microphone, they can't pick it up and a lot of people complain.

MRS. RADLIFF: Okay, I understand. So, that's the only thing that is affecting residential this amendment, right?

COMMISSIONER CANSLER: And, again it really doesn't affect... the changes as far as the requirements aren't any different, the only thing we changed in that part was what we can do to people who don't hook up to sewers as required by the Sewer Code. In the past it just said you had to but it didn't say what would happen if you didn't.

MRS. RADLIFF: Do you know what does happen to somebody that doesn't want to hook up?

COMMISSIONER CANSLER: They get a notice of violation and they have 1 year to hook up and if they don't, then I believe there is a fine of... I don't remember the exact amount of the fine.

MRS. RADLIFF: Okay, I don't need to have that. I was just curious. Thank you, Josh.

MR. JASINSKI: Good evening, Bob Jasinski. I understand the changes for the industrial. What I am looking for is a definition of what you consider industrial in the Town of Bethlehem and is there any industrial businesses that use our sewer system. I can see where this is for the future but just my knowledge now to find out if we have anybody. I thought I was pretty astute on where the sewers lie but perhaps I've missed something.

SUPERVISOR CUNNINGHAM: Industrial service, industrial user and industrial waste is all defined within the Code.

MR. JASINSKI: Okay.

COMMISSIONER CANSLER: Just to reiterate the user is not important here, it is waste that is generated by the industrial user that is addressed in the Sewer Code.

We do have industrial users in Town. But, the requirement is set so that the waste stream is what is addressed here.

MR. JASINSKI: All right but we have people who are putting into the sewer system.

COMMISSIONER CANSLER: Yes, we do.

MR. JASINSKI: I mean this change in Code isn't for new industrials that we are anticipating.

COMMISSIONER CANSLER: No, it applies to all users here in Town regardless.

MR. JASINSKI: Can you give me a number of the industrial number that is in Town that use it?

COMMISSIONER CANSLER: I don't have a number off hand... how many industrial users we have here. Again, it's not so much what the industry is or how many there are, as much as, what they are putting into the waste stream.

MR. JASINSKI: You are not answering my question but that's all right.

COMMISSIONER CANSLER: Well, every industrial user as every residential user, you know, puts different things into the waste stream and you could have a residence, for instance, that puts something that you might consider industrial waste into the sewer system.

MR. JASINSKI: Okay, so it is possible...

COMMISSIONER CANSLER: So, this addresses them, as well as, any factory down...

SUPERVISOR CUNNINGHAM: It's industrial waste which is defined, not domestic waste. Domestic waste is...

MR. JASINSKI: Right, so this expands it over a larger area than what it has been because, as you say, a residential could also have...

SUPERVISOR CUNNINGHAM: Correct, the residential user... a residential user of our system could be in violation of the industrial waste if they are putting industrial waste through their system.

MR. JASINSKI: Okay, thank you.

SUPERVISOR CUNNINGHAM: Additional comments on the Local Law amending the Code of the Town of Bethlehem, Chapter 91 Sewer? If none, can I have a motion to close the public hearing?

The motion was made by Mr. Kotary and seconded by Mrs. Dawson to close the public hearing at 6:17 p.m. The motion was carried by the following vote:

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

Noes: None.

Absent: None.

Town Clerk

Supervisor Cunningham asked if there was any action the Board wished to take.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to approve the adoption of Local Law No. 4 of 2009 Amending the Code of the Town

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of Bethlehem, Chapter 91, Sewers. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

HEARING BEGAN: 6:20 p.m.

SUPERVISOR CUNNINGHAM: Okay, next item on the agenda is the public hearing to consider Local Law amending the Code of the Town of Bethlehem regarding a new Chapter, Noise Abatement and Containment.

The reading of the call of the hearing was waived on a motion by Mr. Messina and seconded by Mrs. Dawson to waive the readings 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. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING

TOWN OF BETHLEHEM, ALBANY COUNTY

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on December 9, 2009 at 6:00 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider proposed Local Law amending the Code of the Town of Bethlehem, adding Chapter regarding Noise Abatement and Containment Ordinance.

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

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

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 Times Union, on November 28, 2009 and that I posted the Notice of Public Hearing on November 30, 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

30th day of November, 2009.

/s/ Julie S. McNeil

Notary Public

SUPERVISOR CUNNINGHAM: Before we start out, I will just talk a little bit about this. Of course, the noise ordinance that we have been talking about for the

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last 2 years... We finally got a draft ordinance that is before us for public hearing this evening. It started out 2 years ago with a committee meeting. They did a lot of review regarding ordinances in the area. They put together a draft ordinance that has been further worked on to make it enforceable ordinance. The purpose of this ordinance is not to limit... or to eliminate noise in the Town of Bethlehem. That's not possibility is not something we are attempting to do here. The issue that we have here in the Town is although 99.9 percent of us don't create excessive noise and we're very considerate of our neighbors.

On occasion we have residents who create noise very late in the evening, sometimes there is a little alcohol involved and sometimes we have a difficult time getting them to cooperate with the neighbors and law enforcement in maintaining a reasonable level of noise. And, so, this ordinance is really designed as a tool for the Bethlehem Police Department when they run into a situation like that to be able to encourage that resident to cooperate, otherwise face some sort of penalty which we do not currently have that tool.

The ordinance was designed not to be onerous on the residents of the Town, it exempts industry, exempt agriculture - so farmers can farm, the rail yard will continue to operate and you'll still hear those cars echoing through the Town in the middle of the night. They make a lot of noise but we can't stop that and we're not attempting to stop that. What we are trying to do is give the police the tools that they need to do their job in the rare instance where they a situation with a noise occurring that is creating an issue for a residence but they can't enforce. So, that was what this was designed to do. I think we've attempted to get as close to possible as a good ordinance.

The other thing I will make residents aware of is that this is not written in stone and unchangeable. And, it is designed not to harm residents but to help residents and to help our Police Department. Where we find once we implement that the ordinance is not working for us one way or the other, we just come back to the Town Board. The Town Board can take a look at that and if it's not working for the residents, we can amend it. We can repeal if it just becomes something that just doesn't work for the community. So, it is not something that once it is in place that we can't go back and look at. So, I just want people to be aware of that before we start going into a lot of details on this thing.

With that, I'll open it up I guess first to the Board. Any comments or questions? Okay, so start with Marie.

MRS. CAPONE: Something I think is terrible that happened to the Delmar Fire Department. They stopped using the siren when they have something there. Are they going to stop using the siren and the lights on the ambulance and the truck?

SUPERVISOR CUNNINGHAM: That is all exempt. Any emergency noises, any noises created for emergency services is exempt in this and...

MRS. CAPONE: Yes, but why do the Town want to stop it?

SUPERVISOR CUNNINGHAM: Let me finish please. And, anything to do with a siren at the Delmar Fire house would have to do with the Delmar Fire Commissioners. It is not a Town Board issue. We didn't ask them to do it. We didn't tell them to do it. I don't even know... I thought they had it back on so I did...

MRS. CAPONE: Well, I am bringing it up to your attention.

SUPERVISOR CUNNINGHAM: Okay. Thank you.

MR. PRESKA: Good evening, Charles Preska. Just a comment on the agricultural operation exemption. Agricultural entities in the Town would more or less would prefer to see a little change because the word reasonable kind of leave it up in the air. I mean, if you asked everybody in this room what is reasonable on a certain item, I am sure everyone would have a different opinion. I think really should be

changed to normal agricultural operations and then also it talks about what an Ag District. If you remember in our Farmland Protection Report which I believe you received last meeting, we identified a significant amount of agricultural land that is outside of Agricultural Districts and also not receiving agricultural assessments.

So, I think all that should be included as being covered also. Okay?

SUPERVISOR CUNNINGHAM: Hold on before you go, I just have a question for your. Can you just repeat that last part for me also regarding the agricultural. That there is farms outside agricultural districts.

MR. PRESKA: Right, in our report from the Agricultural Farmland Protection Report, we identified a lot of acreage that is outside of agricultural districts and also either/or not receiving an agricultural assessment. So, those... the way this is worded here, it makes it sound like any activities within an Agricultural District.

SUPERVISOR CUNNINGHAM: It says or in an area where agricultural activities are permitted within a zone. So, that would be where... it is being allowed in a different zone so it is still encompasses that. I just wanted to make sure we have that covered.

MR. PRESKA: Yes, just so it is covered.

SUPERVISOR CUNNINGHAM: Thanks.

MR. DEYOE: Requesting one word be added to the item K1, exemptions for government. It reads for the purpose of maintenance or repair any public highway facility or utility -- like it to read if possible, for the purpose of construction maintenance or repair. It doesn't kind of address the construction issue which is possible for a new facility.

SUPERVISOR CUNNINGHAM: Well, would we be doing construction in the middle of the night?

MR. DEYOE: Not necessarily but maybe over 75 decibels.

SUPERVISOR CUNNINGHAM: During the day it is no impact, that is government activity.

MR. DEYOE: Okay, yea.

SUPERVISOR CUNNINGHAM: You can still do it.

MR. DEYOE: Okay.

MRS. WIJEYESINGHE: Charmaine Wijeyesinghe. It my first Town Board meeting and I haven't seen the text of the ordinance but I was wondering -- does it cover recreational vehicles ridden on residential property?

SUPERVISOR CUNNINGHAM: The vehicle... all the vehicle issues relate back to Motor Vehicle law. We didn't try and address vehicles in here because the Motor Vehicle law addresses all of those.

MS. WIJEYESINGHE: Okay, because we've had a situation in our neighborhood where the houses are 30 to 40 feet apart where a dirt bike was purchased and ridden by a teenager round and round. And, the neighbor was very accommodating but it did raise a problem for our neighborhood. When it was ridden on the property line it was 15 feet from my house and other houses and when I called the Town they said there was no noise ordinance, there is nothing you can do about it. So, is...

SUPERVISOR CUNNINGHAM: We'll have that in place... we'll have that in place.

MS. WIJEYESINGHE: Okay, so that is covered under Motor Vehicle Law or...?

If it is ridden on private property?

SUPERVISOR CUNNINGHAM: Yeah, I don't think we are going to be able to include vehicles ... period.

MS. WIJEYESINGHE: Okay.

SUPERVISOR CUNNINGHAM: It's just not possible but there are... I don't know if there are other Motor Vehicle laws that we can...

SERGEANT HEFFERNAN: Dirt bikes are legal.

SUPERVISOR CUNNINGHAM: Sorry.

SERGEANT HEFFERNAN: The dirt bikes are legal.

SUPERVISOR CUNNINGHAM: The dirt bikes are legal.

MS. WIJEYESINGHE: Are illegal?

SUPERVISOR CUNNINGHAM: Are legal.

MS. WIJEYESINGHE: Are legal on resident property.

SUPERVISOR CUNNINGHAM: Yes, we would have to go through and make dirt bikes illegal.

MS. WIJEYESINGHE: Okay. Thank you.

SUPERVISOR CUNNINGHAM: We're not going to tackle that.

MR. SMOLINSKY: John Smolinsky, Orchard Street, Delmar. Couple of comments, some technical and some kind of policy oriented. Thanks for the opportunity to take comments or give you comments on this. The committee that originally put together the report consisted of staff and volunteer citizens and they put a lot of effort into that report and it provided some ground work for the ordinance that we are looking at today. Their effort was certainly appreciated.

I think one of the differences between the 2 ordinances was the ability to understand some of the terminology and the logic. For example, here there is no explanation or rationale for how 75 db was chosen. Maybe that is not necessary as part of the ordinance but it certainly would have been helpful as a report of how this ordinance was drafted.

But, let me get into some of the comments here and well I guess, what that leads me to think is that maybe there ought to be an expert review of this ordinance and looking back at what the committee did and seeing if there are some improvements that could be made.

This ordinance has definitions of sound and unreasonable noise but there is another definition that helps... would help understand the implications of the ordinance and that is defining noise and let me give you a definition that I think works. Noise - unwanted sound for the purpose of this law noise shall be measured in dba using a sound level meter set to 8 weighting and slow response. And, one of the problems with the ordinance is using the term db instead of dba. Dba is an 'a' weighting and that simulates the human ear, human hearing, more accurately than straight db scale. It's important to do that if you're really trying to get at minimizing the impact on humans.

In paragraph E2 and E6, the noise limit is specified as 75 db and I just mentioned, what you should be considering is dba or decibels on the 'a' weighted scales as a way to measure the noise.

Paragraph K6 either I am not understanding it or it provides a huge loop hole for

maintenance and construction activities. These activities would be exempt -- mowing, landscaping, trash removal, snow removal -- would be exempt from the 75 dba and exempt from any night time limits.

SUPERVISOR CUNNINGHAM: Correct.

MR. SMOLINSKY: That would seem like a mistake. That loop hole or...

SUPERVISOR CUNNINGHAM: Just let me correct that... that's not a loop hole because as I said we're not trying to make this... we're not trying to eliminate noise. What we are trying to do is give our Police Officers the tools they need to enforce noise limits where they are offending individuals. We don't want people to stop snow blowing their driveways or any of that kind of stuff. This is not designed to do that.

MR. SMOLINSKY: Something ought to be designed that limits or restricts use of a chain saw or mowing at midnight, for example, in your neighborhood. I think if your neighbor started cutting wood at midnight you'd certainly like to have some...

SUPERVISOR CUNNINGHAM: That would be within here... it wouldn't limit it during the day. So, if you have a chain saw that made more than 75 decibels during the day that is not limited. If they are chain sawing during the night it is not an emergency, then yeah, it would be limited.

MR. SMOLINSKY: All I am suggesting is take a look at K6 and make sure it really says what you intended because I can't read your interpretation in it.

Another comment and I think you just explained this. I notice that ATV's, dirt bikes and snowmobiles were not specifically addressed in this. And, I guess I understand your response that you...

SUPERVISOR CUNNINGHAM: That's an ATV, dirt bike issue that is not a noise issue.

MR. SMOLINSKY: The only thing I would think about there is, what about unregistered vehicles? Are they also covered by Motor Vehicle law?

SUPERVISOR CUNNINGHAM: Yes.

MR. SMOLINSKY: Okay. Couple of little typos and I will just give you this sheet to take a look at that. Last item and this may be something that is easily explainable too but the Zoning Code has a performance standards for special use permits. One of those standards happens to relate to noise and it reads -- maximum noise level at a property line applicable to the use (meaning the special use that is being requested) shall not exceed 70 dba as measured in accordance with ANCI standards. What that raises in my mind is an inconsistency with enforcement and also inconsistency in kind of the level of protection because here we have anyone asking for a special use permit limited to 70 dba at the property line - the noise ordinance has a 75 dba limit. And, all I am suggesting here because I don't know the answer -- is take a look at the Zoning Code, take a look at this ordinance and someone make sure that this is either not an inconsistency or something that is explainable that you have different noise limits in these 2.

SUPERVISOR CUNNINGHAM: I am not sure I understand the question or can you just restate what you just said and I can figure out what you are talking about.

MR. SMOLINSKY: In the Zoning Code under special use permits, if a special use permit is requested, one of the performance standards that that special use must meet is a 70 dba noise limit at the property line.

SUPERVISOR CUNNINGHAM: What is that?

MR. SMOLINSKY: If a... let's use Jay's Mobil station as an example. They come in for a special use permit, whatever they want to do on that site is limited to

70 dba at the property line. This noise ordinance limits noise at the property line to 75 dba. So, is that an inconsistency and does it raise an issue with enforcement?

SUPERVISOR CUNNINGHAM: Just go back that is for when they are doing the construction work? I'm not sure what I understand it, why is that there?

MR. SMOLINSKY: It's for whatever the special use is that is being requested.

TOWN ATTORNEY POTTER: I mean superficially they are inconsistent but I think that you could have a particular use as defined in the Zoning law limited to 70 and then all uses outside the Zoning Law are limited to 75. Yeah, there is a 5 decibel difference but I mean, it doesn't make one invalid to have the inconsistency and we could look at it.

MR. SMOLINSKY: Well, that is what I am suggesting. And, thanks for taking the comments.

SUPERVISOR CUNNINGHAM: Thank you.

MS. JASINSKY: Linda Jasinsky. I find it amazing if 99 percent of the people are doing just fine in this Town and 1 percent of the problem and an ordinance is being put in for 1 percent of the people. I understand that residential... I come from a rural area as I said before, we live a little differently... I understand residential people live a lot closer together and might have more problems and different things. I would like to see this limited to residential areas and not in the other areas of Town such as rural, commercial, that kind of thing.

I also have a question about how you are going to enforce this. I mean are the police going to be driving up and down the roads looking...listening for noise. Is there going to have to be....

SUPERVISOR CUNNINGHAM: It will be based on a complaint.

MS. JASINSKY: Because... I mean right now there are plenty of things that the police don't enforce. There's plenty of vehicles, I can tell you where you can stand at any given time during the day and you'll have vehicles running through Town, making noise, screeching and that kind of thing and nobody enforces that. So, there are plenty of other laws that are out there that could be enforced that we don't need a noise ordinance. Thank you.

SUPERVISOR CUNNINGHAM: Thank you. Other comments on the noise ordinance?

MRS. RADLIFF: Hi Jack, Cindy Radliff of Selkirk, back again. I am asking this question based on my own experience. I live prior to a neighbor who was an Albany Police Officer. He broke the Zoning Law, he had more than 2 dogs. Needless to say every time I went outside to try to enjoy my back yard I had a lot of dogs barking. Every time I called the Police Department, the Dog Warden, I felt they did favoritism because he was an Albany Police Officer and all I heard was it is your word against his, he says you are making it up. To make it a short story, I had to buy a security camera, actually take a video of this episode and that is the only time the police believed me.

So, if this is going to be an ordinance, I would like a separate committee for somebody that had a problem, like mine, to review it.

SUPERVISOR CUNNINGHAM: Okay, thank you.

MS. DEFRANCO: Hi, I'm Jennifer DeFranco. I was on the Noise Ordinance Task Force. First of all I would like to say I am really happy that we are here now with this. And, I just wanted to add a few things for some of the residents who had complaints that their issues might not be covered under this current draft. The off-road vehicles, once again, I really think that they should be held to the standard of noise. If they are over a certain level over the property line, I think they should be

included under the noise ordinance.

And, several residents have complained about wind chimes that are around the clock and honking horns which I don't particularly see in this draft but maybe it's covered.

I would also suggest that we have at least an option of using the dba standard for the daytime, as well as, the night time. I think that... I am just a little concerned about how we're going to enforce it in the daytime and just from personal experience of having 8 years of noise problems on my property, it is a challenge for a Police Officer to make a judgment on noise when it is just subjective.

SUPERVISOR CUNNINGHAM: That's why this is measured.

MRS. DEFRANCO: In the daytime it is? There is a dba in the daytime as well?

SUPERVISOR CUNNINGHAM: Yes, no it is just night time.

MRS. DEFRANCO: I just think it... just to have a second option if they want to come on someone's property and say yeah it's way too loud, I'll speak to your neighbor but also if they say, yeah I've heard worse and my house. And, you say you know, could you just pull out the meter and just check it. I think it would be an extra tool for the officers in the daytime because you want to make it as easy for them as you possibly can to solve the problems and do their jobs. And, also as the other lady mentioned, I mean not that I have seen any favoritism but it certainly would rule out any favoritism of, you know, you know, your neighbor is the Supervisor's nephew or something. So...

SUPERVISOR CUNNINGHAM: Well, he can make all the noise he wants at least til December 31st.

MRS. DEFRANCO: And, the comment on 99 percent of the people in this Town don't need it, I think most of our laws are... the minority of the people have to deal with you know, really bad crime, mild crime and I think that it is the 1 percent that have no resolution to their problems that is why we need a noise ordinance. And, I really hope that this gets passed. Thank you.

SUPERVISOR CUNNINGHAM: Okay, thank you. I will admit that 99 percent was just a number I pulled out of my head. That's not an official number, maybe more like 98 percent. Other comments?

MR. MARTEL: Jerome Martel, Crannell Avenue. Having been a Member of the Noise Ordinance Task Force, and the 8 months that was invested into the Task Force and Committee, I would just ask that we take this opportunity to really look at some of the questions that were brought up this evening. I think the draft that was put out there was a real departure from what was originally put into by Councilman Messina to the Town Board. So, I would just ask that we take another look at the program and just really evaluate where it is going to go. Thank you.

SUPERVISOR CUNNINGHAM: Just to clarify, this is his draft modified, it was...

MR. MARTEL: The draft that was on the Town Board website consisted of about 4 pages, the original that was submitted was about 8. Just... the one that was submitted in March.

SUPERVISOR CUNNINGHAM: Thank you.

MRS. CAPONE: Sam, by what we hear tonight, you realize that soon Lou is going to need more officers.

SUPERVISOR CUNNINGHAM: Other comments? Okay, could I have a motion to close the public hearing?

The motion was made by Mr. Hennessey and seconded by Mrs. Dawson to close

the public hearing at 6:43 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

Supervisor Cunningham asked the Board if they wished to motion on this proposed Local Law. Councilman Messina said he was not ready to adopt it. He said there were a lot of things mentioned and worthwhile to look at. He suggested it be tabled. Councilman Dawson said she agreed. Supervisor Cunningham said it would be set aside for today.

Councilman Kotary thanked everyone for speaking tonight and the Committee for all their work. He mentioned this is a tool box with options and this foundation is being used with enhancements from other situations. He said he would suggest a few word changes and insertions indicating one particular issue is the difference between the db and dba. He said he was not sure there was somebody who could explain that.

Councilman Kotary said to conclude he thinks the proposed Local Law is a good basis. He said one question is regarding noise generated from ATVs, motorcycles, off road type vehicles and that would be if they are an off-road unlicensed vehicle are they compliant with E-3 which would be the other noise restrictions set out in Motor Vehicle law and if those occurrences are between 11 and 7 - would those be if not specifically exempted restricted noise levels.

Councilman Kotary said this is a tool and everyone has talked about it, this tool is not a tool to address other issues in terms of property issues, trespassing, motor bikes etc. But if there is a noise generating from such activity, Mr. Kotary said, would that be included in this particularly from 11 to 7. Town Attorney Potter said maybe a reasonable addition would be to add licensed motor vehicles an exemption for unreasonable noise prohibited. He said the one thing he wants to check is if Motor Vehicle encompasses licensure and asked Lieutenant Heffernan when referring to dirt bikes being covered by the Motor Vehicle law, is that strictly licensed dirt bikes or would there be unlicensed motor vehicles that would not be subject to these laws. Lieutenant Heffernan said he would have to look since he has not seen the ordinance so he is not familiar with what it says compared to what the Vehicle and Traffic Law would state. He said he would have to look at the difference. He said in regard to ATVs, if they are on their own property that would be different than being on the public roadway or someone else's property.

Town Attorney Potter asked if the ATVs would be licensed. Chief Corsi said there are provisions for that.

Councilman Hennessey said just in terms of tabling this proposed law, he thinks it is very important that this be brought up at the next meeting. He said he does not want this to keep going on forever and have expert after expert look at everything under the sun. He said he would assume this can be brought up at the next meeting.

The motion was by Mr. Kotary to close the public hearing and reopen the meeting on December 23, 2009. The motion was 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.

Town Clerk

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Supervisor Cunningham noted this conversation will continue on December 23 and acknowledged the committee that put this together. He said they did a good job and did a lot of work on this. He further noted this does not eliminate noise in the Town, it just helps address really what is unfair noise to people living in Town.

The next item on the agenda was to approve Town Board minutes of November 24, 2009.

The motion was made by Mr. Messina and seconded by Mr. Hennessey to approve the Town Board minutes of November 24, 2009 as submitted. The motion was passed by the following vote:

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

The following item was a request from Receiver of Taxes and Assessment, Nancy Mendick, to approve the appointment of Catherine A. Whitney to the position of Account Clerk I for the Tax office. Supervisor Cunningham noted there has been 2 individuals pass away and it is a small office and there is a need for the vacancy to be filled.

The motion was made by Mr. Kotary and seconded by Mrs. Dawson to approve the appointment of Catherine A. Whitney to the position of Account Clerk I for the Tax Department effective December 10, 2009 as requested by Nancy Mendick, Receiver of Taxes and Assessments. The motion was passed by the following vote:

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

The next item was a request from the Director of Personnel, Mary Tremblay-Glassman, to appoint Kim Ryan to the position of Confidential Secretary to the Human Resources Department effective January 1, 2010. Supervisor Cunningham noted this is a move for this employee.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to approve the appointment of Kim Ryan to the position of Confidential Secretary to the Human Resources Department effective January 1, 2010 as requested by the Director of Personnel, Mary Tremblay-Glassman. 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 Chief of Police, Louis Corsi, to approve the transfer of Robert Markel from Patrol Sergeant to Detective Sergeant effective December 13, 2009.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve the transfer of Robert Markel from Patrol Sergeant to Detective Sergeant effective December 13, 2009 as requested by Louis Corsi, Chief of Police. 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 Louis Corsi, Chief of Police, to appoint Officer Stephen M. Kraz to the position of Patrol Sergeant effective December 13, 2009.

The motion was made by Mrs. Dawson and seconded by Mr. Hennessey to approve the appointment of Officer Stephen M. Kraz to the position of Patrol Sergeant effective December 13, 2009 as requested by Chief of Police, Louis Corsi, effective December 13, 2009. 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 Deputy Commissioner of Public Works, Erik Deyoe, to approve engineering services from Clough Harbour Associates for the Feura Bush Road Sidewalk from Wemple Road to East Bayberry Road.

The motion was made by Mrs. Dawson and seconded by Mr. Hennessey to approve engineering services from Clough Harbour Associates for the Feura Bush Road Sidewalk from Wemple Road to East Bayberry Road as requested by Deputy Commissioner of Public Works, Erik Deyoe. The motion was passed by the following vote:

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

The following item was a request from Deputy Commissioner of Public Works, Erik Deyoe, to award Contract 1G for the construction of a Diversion Dam Catwalk Extension at the Vly Creek Reservoir to Peter J. Rozell Mechanical Ltd and authorize the Supervisor to enter into a contract for \$41,875.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve the award of Contract 1G for the construction of a Diversion Dam Catwalk Extension at the Vly Creek Reservoir to Peter J. Rozell Mechanical Ltd and authorize the Supervisor to enter into a contract for \$41,875 as requested by Erik Deyoe, Deputy Commissioner of Public Works. The motion was passed by the following vote:

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

The next item was a request from Erik Deyoe, Deputy Commissioner of Public Works, to award the South Albany Sewer District WWTP construction contract to Pollard Excavation and authorize the Supervisor to enter into a contract for their base bid price of \$360,545. Supervisor Cunningham reminded everyone that Federal Stimulus money was received for this project and it will be within budget of the grant.

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to approve the award for the South Albany Sewer District WWTP construction contract to Pollard Excavation and authorize the Supervisor to enter into a contract for their base bid price of \$360,545 as requested by Deputy Commissioner of Public Works, Erik Deyoe. 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 Deputy Commissioner of Public Works, Erik Deyoe, to accept a right-of-way easement for 629 Bridge Street, South Bethlehem.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve the acceptance of a right-of-way easement for 629 Bridge Street, South Bethlehem, as requested by Erik Deyoe, Deputy Commissioner of Public Works. The motion was passed by the following vote:

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

The following item was a request from Erik Deyoe, Deputy Commissioner of Public Works, to accept a right-of-way easement for 276 Clapper Road, Selkirk.

The motion was made by Mr. Kotary and seconded by Mr. Messina to approve the acceptance of a right-of-way easement for 276 Clapper Road, Selkirk, NY from John Hillmann and Sons Farm, LLC as requested by Erik Deyoe, Deputy Commissioner of Public Works. The motion was passed by the following vote:

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

The next item was a request from Deputy Commissioner of Public Works, Erik Deyoe, for acceptance of an all purpose easement for Cottage Lane, Selkirk.

The motion was made by Mr. Hennessey and seconded by Mrs. Dawson to approve the acceptance of an all purpose easement from Garry G. Horne, Cottage Lane, Selkirk, NY as requested by Erik Deyoe, Deputy Commissioner of Public Works. The motion was passed by the following vote:

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

The next item was a request from Deputy Commissioner of Public Works, Erik Deyoe, to accept an all purpose easement for 1182 Route 9W, Selkirk, NY.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve the acceptance of an all purpose easement for 1183 Route 9W, Selkirk, NY from Adirondack FPI, Inc. as requested by Erik Deyoe, Deputy Commissioner of Public Works. The motion was passed by the following vote:

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

The following item was a request from Commissioner of Public Works, Josh Cansler, to approve an amendment to the Heldervale Sewer District Agreement.

The motion was made by Mr. Kotary and seconded by Mr. Messina to approve an amendment to the Heldervale Sewer District Agreement as requested by Josh Cansler, Commissioner of Public Works. The motion was passed by the following vote:

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

Noes: None.
Absent: None.

The next item was a request from Commissioner of Public Works, Josh Cansler, for approval of the 2010 Water and Sewer Rates and Fees.

The motion was made by Mr. Kotary and seconded by Mrs. Dawson to approve the Water and Sewer Rates and Fees for 2010 as requested by Josh Cansler, Commissioner of Public Works.

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Councilman Messina said looking at the Memorandum there is a paragraph that raises a couple questions regarding the budget. He said the request is for a 3 percent rate increase in water and sewer. He noted the 2010 budget was presented in September including a slight reduction in the water and sewer rates if he was reading that correctly and then the proposed 3 percent rate increase was also calculated into the budget revenue at this time as well. Mr. Messina asked if there is a complete consistency in that and asked where this goes. Commissioner Cansler said the budget presented in September did include this rate increase. He said it was discussed at the budget meeting and it was also included in the Board meetings in September and October. He said there really is no modification to the budget as it was presented and as it was agreed upon earlier.

Supervisor Cunningham said he thought the question might be about the way this is structured. Councilman Messina asked what it means when he said there is a slight reduction. Commissioner Cansler noted the tax rate was modified slightly this year when the budget workshops were done. He said actually the water and sewer tax rate went down slightly and that is why it was included in the discussion here. He said that makes up for some of that, as well as, some of the extra costs that incur as a result of inflation and increasing maintenance costs.

Commissioner Cansler said the reality is and this was discussed with the Board before, 3 percent really doesn't get us where we need to be as far as addressing the future infrastructure needs. He said they felt this was adequate for now until they are able to finalize the Capital Plan and establish the exact priorities on the infrastructure for DPW and within the Town as well. He said at that point, the Town will have to address specifically any rate increases and how those infrastructure needs will be addressed through rate increases and tax increases or however it is done. Councilman Messina thanked Supervisor Cunningham and Commissioner Cansler.

The motion was passed by the following vote:

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

The next item was a request from Senior Planner, Robert Leslie, to accept an application to amend the existing Planned Development District (BPA No. 26, PRD No. 12), The Eddy Village at Beverwyck, Amendment 5A.

Mr. Douglas Miller the Executive Director of Beverwyck a retirement community that is located in North Bethlehem said by way of history, he noted they opened in 1993 with 85 apartments and added another 85 apartments in 1995 and to continue to fulfill their mission for senior services and housing in the Town they added in 1999 Assistive Living which is the next level of care beyond being independent. In 2006 through market demands, they added 15 additional cottages.

Mr. Miller noted in 2006 they filed an application with the Town for 18 beds of Alzheimer care and also 20 beds of skilled nursing care. He said that was approved by the Town in 2006. He said shortly after that they rethought their plans due to market conditions and the number of providers that were in this area and did

not act on the approval very quickly because they wanted to see just what the depth of the market is.

Mr. Miller noted since then a new model of nursing home care has evolved called Green Houses. He said they are a residential model of nursing home care instead of an institutional model. He said they are here proposing to build 2 12 person homes for nursing home care. They will be single story.

Mr. Miller exhibited a map and indicated the location of these buildings. He also noted the location of their other buildings. He said they will have all private rooms complete with bathing facilities, a country kitchen and more of a communal dining rather than a tray service again to make this more like home. He said there will be entry into this property off of Beverwyck Lane and exit back out on Beverwyck Lane adjacent to Olympia Drive.

Mr. Miller said there will be a secure fence area and parking will be met by the existing lots. He said they originally were going to construct 30,000 square feet of housing and this is now reduced to 20,000 square feet. He said they are now seeking an amendment to the original application and proceed to the Planning Board.

Supervisor Cunningham noted what is before the Board is accepting the application to amend from 30,000 square foot to accept the 20,000 square feet buildings. He further noted the application will go to the Planning Board, they will do their work and it will come back to the Town Board to approve or disapprove the amendment. He thanked Mr. Miller for the presentation.

The motion was made by Mr. Messina and seconded by Mr. Kotary to accept the application to amend the existing Planned Development District (BPA No. 26, PRD No. 12) from the Eddy Village at Beverwyck, Amendment 5A as requested by Senior Planner, Rob Leslie. 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 of Economic Development and Planning, Michael Morelli, to approve the 2010 Building Permit Application Fees. Supervisor Cunningham noted the Town reviews the fee structure each year to make sure it is in appropriate and it is apparent this year that the fees are somewhat lower than comparable communities so the Director is recommending the fees be increased.

The motion was made by Mr. Kotary and seconded by Mr. Messina to approve the 2010 Building Permit Application fees as listed in the Memorandum dated December 1, 2009 as requested by Michael Morelli, Director of Economic Development and Planning. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The following item was a request from Nan Lanahan, Administrator, Parks and Recreation Department, to approve seasonal personnel effective January 1, 2010.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to approve the appointment of seasonal personnel effective January 1, 2010 as listed on the Memorandum dated December 9, 2009 at the titles and salaries indicated as requested by Nan Lanahan, Administrator, Parks and Recreation Department. The motion was passed by the following vote:

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

Supervisor Cunningham asked if there was any new business from the Board. Councilman Messina said he thought it appropriate under new business and just with respect to the noise abatement ordinance, it is possible in the next 2 weeks to do the job we have to do to have a reasonable public hearing. Early December and December 23rd is not the easiest time to garner much public participation in these meetings but let's see how it goes.

Mr. Messina suggested for consideration that the items identified be gone through 1 by 1 to be evaluated in terms of the impact on the abatement ordinance and then a detailed response given. He said it is difficult to sit at a meeting like this and rather off the cuff determine if it is a V and T law issue or if it is not. He said for instance there were a lot of people who wrote about the concern of off track vehicles and the impact on adjoining property owners. He said he just wanted to make sure that the Board gets that right so he suggested the process be followed to nailing these items one at a time. He said he did not know if Town Attorney Potter wanted him to be involved in that or how it would be done. He said any time the Board wishes or Attorney Potter wants, he would be glad to sit with him or others and work through this to ensure it is in good shape 2 weeks from now.

Mr. Messina suggested Mr. Mark Bagdon be contacted since he was very helpful to the committee pro bono and he might be willing to help the Board out. He noted he has the expertise to deal with the definition of decibel, etc. He noted he is in Town also. Supervisor Cunningham thanked Councilman Messina.

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Supervisor Cunningham asked if there was any other new business. Councilman Kotary commented that he thought, as far as, he was personally concerned, he has 6 or 7 very small word changes or tweaks and there are a few that came up today that he had not caught. He said he would support those. He said he thought it was ready to go with 2 issues and noted they are for clarification. He said it does not mean more than a 2 minute response and that concerns the db versus the dba. He noted 75 is a number that was used in Colonie and other communities so there is some precedence for that.

Councilman Kotary said the second would be with a question of the unlicensed vehicles not to get too far into the weeds with that but simply the noise issue of a mini-bike, ATV, etc. from 11 to 7 if that would still be captured. He said if it was not, the question would be -- would we need some sort of exemption.

Councilman Kotary said those are the 2 issues and in regard to public participation, he thinks with the great work of the committee, the public hearings that have been held and there has been a good 2 years worth of work, he is ready to go with this with the 2 changes. Supervisor thanked Councilman Kotary.

Supervisor Cunningham asked if there was any other new business. There was none.

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Supervisor Cunningham made the following announcements:

- ✓ Thanked everyone for their participation in the Holiday Parade December 4 including the Spotlight for doing an article on it.
- ✓ 3 closings coming up - Town Hall will close December 24, 2009 at 12 noon; closed all day on December 25th; and January 1, 2010 will be a full day holiday. Councilman Messina noted he will be having a public swearing in of officials. He said it will be January 1, 2010 at 2:00 p.m. in the Auditorium, refreshments provided and invited everyone to attend.

Supervisor Cunningham asked if there were any comments on non-agenda items.

Mrs. Cindy Radliff said she knows Commissioner Cansler has been very busy by looking at the agenda. She asked about the sewer in the Selkirk area since it is very important to her and she has not gotten an update or anything.

Mrs. Radliff said the other thing is about the other Town meeting about the noise ordinance she thought it would be a good idea because December 23rd is so close to Christmas and a lot of people go away. She said maybe the Board could have another meeting but she knows some people are anxious to pass it but she thinks a lot of people are very busy. Just her comment and she asked if she could get an update on her project.

Commissioner Cansler said he will send her an email on Thursday. Mrs. Radliff thanked Commissioner Cansler.

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Ms. Linda Jasinski said apparently 4-wheelers and motorcycles have been brought up a lot tonight but they have been brought up on many other nights. She said they do all these trails for people who are walking, maybe the Town should look into some kind of a trail for the 4-wheel vehicles so they can have places to drive on. Maybe they will stay to those trails instead of people's backyards and trespassing and that type of thing. She said she knows they need to be registered and there is money supposedly going to the State that is supposed to go into this kind of stuff. She suggested maybe the Town could tap into one of the grants that people love so much.

Supervisor Cunningham said he thinks there is lots of money around for ATV trails. Ms. Jasinski said she thinks the people in this Town would be willing to come and work and put their heads together about trails for ATVs, motorcycles and snowmobiles. Supervisor Cunningham thanked Ms. Jasinski.

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

The motion was made by Mr. Messina and seconded by Mr. Kotary to adjourn the regular Town Board meeting at 7:15 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