

TOWN BOARD
JUNE 13, 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
Joann V. Dawson, Councilman
Kathleen A. Newkirk, Town Clerk
James T. Potter, Esq., Town Attorney

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Supervisor Cunningham asked everyone to rise for the pledge of allegiance. He said before starting, he announced the eve of Flag Day, and took a moment to speak about the significance of tomorrow's date. He said Flag Day is the traditional anniversary of the commemoration of the adoption of the stars and stripes as the American flag. He said this year would be the 230th anniversary of that event. He said Flag Day was originally commemorated on May 30th but in 1949, that date was moved to June 14th to coincide with the adoption of that event. He said the flag in the back of the room was made by Leah Slingerland and noted she was a resident from 1840 to 1929. He said the flag was flown over what was called the village common flagpole during the Civil War, the Spanish American War and World War I. He noted it originally had 33 stars and 2 stars were added for the States of Nebraska and West Virginia. He said Leah was a Charter Member of the Tawasentha Chapter Daughters of the American Revolution and in 1979 the group restored the flag and in 1980 donated it to the Town and it serves as a reminder of the rich tradition we have in the Town of Bethlehem. He hopes all citizens will participate in the commemoration of Flag Day on June 14 and fly the American flag.

The Supervisor invited Senior Chief Petty Officer retired and past commander of the Nathaniel Adams Blanchard Post, Mark Wall, to lead the pledge of allegiance. The Supervisor thanked Mr. Wall. Mr. Wall invited the Town to the flag burning ceremony sponsored by the American Legion, Elsmere Fire Department and Boy Scout Troop 58 at the Kevin Shea Memorial Tower. Supervisor Cunningham said the ceremony will be at 7:30 p.m.

Supervisor Cunningham asked everyone to stand for a moment of silence in remembrance of Dr. Raymond Houghton, who died on May 30th. He said he was a Town resident, decorated Vietnam vet, received his doctorate from Duke University in computer science and wrote several award winning books on the Revolutionary War. He noted we were fortunate to have Dr. Houghton serve as Town Historian for the past 2 years. He said he leaves behind his wife, Jan, son Raymond and 2 daughters, April and Amy. He extended sympathy to the family for their loss and ours. The Supervisor thanked every one.

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Supervisor Cunningham said the first item was the public comment period on agenda items. He noted the public hearing is schedule for 6:15 p.m.

Mr. Marie Capone said the agenda says they are going to work with the sewers, asking if the Supervisor has ever looked to go to Vollmer where Bruce Secor is. She said Bruce Secor ran the whole Town and knew everything about it. She said that was the worst thing Terri did was pack Bruce Secor and at the same time you are going to spend \$800,000. She noted she spent \$750,000 for a pool that never work. So, we're going to remember that. Supervisor Cunningham thanked Mrs. Capone.

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Mr. Bill Kelleher from Roweland Avenue said he had 2 items concerning the history of the Town of Bethlehem that are on the agenda. The first one is the emergency repairs to the sewer. He said the sewer passes through a very historical part of the Town. He said he did not know how many people recognize the fact that the Town of Bethlehem name came from that area. He said it was used by the Dutch and there was a dam at the top of the falls, the Vlomanskill, and they piped the water down to a water powered mill and that's where the Town of Bethlehem originated. He noted it was called the settlement of Bethlehem and there was a port there most likely where the Sill house is. He said all he is saying is he recognizes the need for emergency repairs otherwise we would get possibly sued by EPA and the State of New York, however, just because there is an emergency he wanted to point out he thinks someone should be assigned to look at any possible historical discoveries that would be made in these repairs. He said this was just a word of caution and he was sure Mr. Houghton would agree. He said he does not know who the new Town Historian is. Supervisor Cunningham said they have not selected one yet.

Mr. Kelleher said the second item has to do with the shoreline of the Hudson River. He said that is over 2,000 feet of decaying wood dikes that the Corps of Engineers abandoned in 1985. He asked if the Town was going to take responsibility for replacing the entire dike. He said it will cost millions of millions of dollars. He asked how a fishing pier can be put up there unless this is done. He said as an engineer he is very well versed in this field and it is impossible. Supervisor Cunningham noted there is no final plan for that yet. Mr. Kelleher said he does not know why the study is being done. The Supervisor said the reason the study is to try and correct the issue of that area. He said the area is collapsing and they would like to open the river to public access but they cannot do that. He said the study is to try and figure out what they can do to improve the area. He said they are also looking for grant money to support that. Mr. Kelleher said you won't get it from the Corps of Engineers because they got too much money to spend down in New Orleans. He said you probably won't get it from the State and as far as he is concerned, it is a lost cause.

Mr. Kelleher's recommendation was to abandon Henry Hudson Park and give it back to the State, take the historical plaque and the rock and put it right in front of Town Hall where a lot more people can see it and recognize the significance of what Henry Hudson did. He noted he would not take his grandchildren down to Henry Hudson Park because water always attracts children. He asked if we are taking responsibility for building a fishing pier and the insurance responsibility. He noted the Board should think twice about it. Supervisor Cunningham thanked Mr. Kelleher.

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Mrs. Capone congratulated the Supervisor that the microphone system was working very good tonight. Supervisor Cunningham said he was working on it all day to make sure it worked. Mrs. Capone said after the last Board meeting somebody called and told her that her group of people would accept this young man to take the place of his boss that is retiring - Mr. Deyoe. She said they noted he was always the one to answer the questions that were asked.

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Supervisor Cunningham asked if there were other public comments on agenda items. Mr. Robert Jasinski said he could not pass this up. He addressed the Dinmore Road sewer trunk main. He said he realizes there has to be something done. He said his concern is that we have that problem, we've got a busted pipe down on Beacon Road, we got other pipes that are bursting. He said his concern is that at this time if the Board shouldn't contemplate coming up with something to give at least an engineering study of the whole piping system throughout the Town of Bethlehem. He said they know it is deteriorating, we're only replacing it in sections. He said he knows Erik is good and Oliver Holmes is good but perhaps the Town should look at the Town overall.

Mr. Jasinski also asked if there was any emergency money from the State or Federal government on this Dinmore Road sewer trunk main. He said it is a

sewage trunk, there must be some kind of Federal grants that we can get for this. He said \$800,000 will deplete a very large amount of money. Supervisor Cunningham agreed. Mr. Jasinski said he suggests this be looked at for the future, not only the present. The Supervisor thanked Mr. Jasinski.

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The Supervisor asked if there were any other public comments. Mr. Constantine Kontogiannis said he has concerns that are peripherally related to the Vista project but not directly endemic to the master plan discussion that is going on tonight. He asked the discretion of the Board to discuss them now, during the Vista master plan comment period or as a non-agenda item. Supervisor Cunningham asked that he stop and he will start the public hearing and take the comments during that. Mr. Kontogiannis said as long as the breath of his comments were permitted which he noted again extend beyond the Vista master plan concept. Town Attorney Potter said they would be, as long as, it touches the Vista master plan. The Supervisor invited Mr. Kontogiannis to stay at the microphone.

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Supervisor Cunningham asked if there were other agenda item comments. There were none.

HEARING BEGAN: 6:17 p.m.

SUPERVISOR CUNNINGHAM: Could I ask for a motion to waive the reading of the call of the meeting and motion to indent the notices.

The motion was made by Mr. Plummer and seconded by Mr. Messina to waive the reading of the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting and indent said notices 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: None.

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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 June 13, 2007 at 6:15 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to solicit public comment on Vista Technology Campus Master Plan, Slingerlands, Town of Bethlehem.

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)

County of Albany)

The undersigned is the printer 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 week, commencing on 5/30/07 and ending on 5/30/07. The text of this notice as published in said newspaper is as set forth below, or in annexed exhibit. This newspaper has been

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

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 19 day of June 2007.

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

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

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 that I posted on May 23, 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
22nd day of June 2007.

/s/ Julie S. McNeil
Notary Public

SUPERVISOR CUNNINGHAM: I'd like to open the floor to testimony. I'm sorry. Oh, did you want to do your presentation first. Oh, I'm sorry.

MR. UPPRUNG: Good evening, my name is Gregg Upprung, I am with Saratoga Associates. With me this evening is Teresa Bakner with Whiteman, Osteman, and Hanna, she is an attorney. Also Jeff Pangburn with Creighton Manning, traffic engineers and Bill Herbert with BBL Development. I would like to give you just a brief overview of the project. Just where we are right now in the approval process.

The SEQR review has been completed and gone through a fairly extensive environmental review looking at things like traffic, wetlands, storm water management and water and sewer and the list goes on. We've completed that review with the findings statement that has been adopted by Town Board. Following the SEQR process, there is the master plan that has also been reviewed by the Planning Board. The Planning Board has made a recommendation to the Town Board to approve that master plan. Before the Town Board can approve the Master Plan, we have to have a public hearing which is the purpose of this meeting this evening. Subsequent to the Town Board approval, the project then goes on to subdivision and site plan approval with the Planning Board. Concurrent with that we are also going through a rezoning process with the Town of New Scotland as a portion of the project lies within that Town.

Just take a brief overview of the project. It is a technology based economic development project. Anticipate pretty significant economic benefits looking at, you know, annual Town taxes on the order of \$124,000 per year and school taxes approximately \$2.5 million a year. The project is located in an economic development zone so it will see the economic benefits from being in that zone. The proposed project is comprised of about 1.4 million square feet of various uses -- office, research and development, light manufacturing and retail and commercial. The Ps and Ss following those items there -- P indicates a primary use and S indicates a secondary use. In the MEDD district there are specific requirements with respect to the breakdown of those uses. There is a maximum of 30 percent secondary uses that built out of a project in that zone. You can have up to 100 percent of primary uses but the maximum secondary use is 30 percent.

For the Vista project, we are looking at about... at build out of about 80 percent primary uses and 20 percent secondary uses. The other requirement within the MEDD district is that at no point during the development can you exceed a ratio of 50/50. And, the developer of the development has submitted to comply with that

requirement. Currently as part of phase 1, we are looking at about 78 percent primary uses and 22 percent secondary uses. So, we are well in compliance with that requirement.

The total property is about 451 acres, just to orient everyone, this is New Scotland Avenue, this is Cherry Avenue Extension, Price Chopper building and the proposed bypass which would provide access to this project. As I said a total of 451 acres, we are looking to develop on about 150 acres of that 450. In addition to that, there would be approximately 82 acres that would be retained by the current landowner, Dr. Jones. So what that means is about 219 acres which will be left undeveloped and forever wild. We anticipate build out of the project to occur over approximate period of about 12 years. Phase 1 which would be these buildings up in this area here is about 240,000 square feet and the build out again is about 1.4 million square feet.

Applications are being submitted to both the Town of Bethlehem and Town of New Scotland. Three-hundred and thirty acres of the site is in the Town of Bethlehem and about 120 in the Town of New Scotland. There is an area this is currently zoned Rural Residential in this area, this is the Town boundary. We are looking to rezone in New Scotland just the area needed for this portion of the project and that turns out to be about 43 acres.

We wanted to bring up this evening a slight change in the project due to a property control constraints. We are looking at relocating the roundabout and entrance to the project. Currently, as shown on the master plan, the roundabout is over in this location. We are actually looking to locate it over... relocate it over into this area. There are some benefits to making that move, we avoid some wetland disturbance by doing that. There happens to be a gas transmission line located in here. There were some issues with locating the roundabout over that gas line so we would be avoiding that issue. And, there is one other item, just the alignment of the road, it provides really for better entrance and access into the project and into the rear, as well as, the potential for any future extension of that road over into the Town of New Scotland. So, there are some advantages of making that relocation of the roundabout.

We expect that the plan will be referred back to the Planning Board for further review before they make their final recommendations to the Town Board.

Lastly, I just wanted to go over that the Town spent a lot of Town putting together a comprehensive plan that included the concept of the economic development districts and there were some criteria developed with that and just listed them here. The project really complies with all of this. In the comprehensive plan just to support this project has identified specifically – expand the diversification of a non-residential tax base to help out in keeping the taxes in the Town low. Maintaining and enhancing pedestrian access – we will be providing a perimeter trail around the Vista project and looking to make connections where we can into any regional trails. Protection of stream corridors and water courses. We really tried to avoid steep slopes and water courses keeping the development up on the flatter portions of the site. The developer has committed to encourage future tenants in the use of ... not really a requirement but something that would be encouraged similarly with the promotion of alternative energy resources.

Lastly, just the utilization of a plan development tool which is what... how this project was proposed in the Planned Development District. So, with that brief overview, I'll turn it back over to the Town Board.

SUPERVISOR CUNNINGHAM: Thank you, now we'll open it up to public comment. Each speaker please just state their name and address for the Clerk.

MR. LAZ: T.R. Laz, actually I live on Krumkill Road which part of this development is going to be in New Scotland, so that's why I am here. Just to bring people up to speed to the sheer size of this project, this is already a large Price Chopper, right there and this is... I can't even comprehend... I was at a meeting a few months ago and the only way I can compare to this is kind of like Disney

World down in Florida. That's huge, on the map it may not look large but that's huge, huge complex.

I know that on paper and in pictures the new complex is visually stunning, beautiful but we are more concerned about any problems in the future – water, waste, services, roads, maintenance, traffic, emergency services, police, fire, rescue, long term effects on the environment, ground, nearby waterways. All concerns to residents plus not the mention the redevelopment on altering the terrain itself. There's already like a 20 percent occupancy for offices. We can't even fill the office space that we have. You want to build more spaces. Okay. Again, the bottom line is once VISTA happens, if it happens, there's no going back. Once that happens you can't undo the damage. Thanks.

MRS. CAPONE: He talks a lot about what he is going to build but he doesn't say how he's going to get the water there and how he's going to get the sewers over there. And, that's the basic.

MR. CUNNINGHAM: Want to mention the water and sewer.

MR. UPPRUNG: Sure. Yes, the water line is being extended at... it connects into a 16 inch water main along New Scotland Avenue. The water main is going to be extended out around and then there is another connection over near Mahar Road so it creates a loop and then we will just bringing water into the project site from there. That's for the water.

The sewer we are running a collection system on site that is comprised of force mains and gravity sewers. There will be one main pump station on site over in this location, pumped by force main that will tie into a force main up along Cherry Avenue. That's the force main that comes from the New Scotland Avenue pump station which is located over in this area. So, we've got the water and sewer covered. There are some sewer improvements that will be required. The developer has committed to pay his fair share of those improvements.

SUPERVISOR CUNNINGHAM: Thank you.

MR. KONTOGIANNIS: Just one more quick question before we begin, will we be afforded the opportunity to provide written comments within a set time frame?

SUPERVISOR CUNNINGHAM: Yes. If you want to... do you have the written comments there that you want to...?

MR. KONTOGIANNIS: No, I'll provide those at a future date with respect to the master plan issues.

My names is Constantine Kontogiannis. I reside at 12 Shanks Place in Delmar. Like to discuss a matter that I strongly feel should be a matter of public record. I'm the Managing Partner of KKS Properties, LLC and we own approximately 22 acres of land on both sides of the Slingerlands bypass currently under construction. Of this land, approximately 18 acres on the west side of the bypass extension and the southern portion of those lands abut the proposed Vista development. In several public... prior public meetings and hearings, I've voiced my support for this project based on a combination of recent interactions with BBL together with members of the Town administration. In further examination of the final Vista EIS documentation I reserve my support or opposition until I can assess these implications... the implications of recent changes.

For now, I would like to concentrate on my concerns related to the recent interaction with BBL and the members of the Town administration and I will provide my comments regarding the EIS at a later date.

On the Tuesday after Memorial Day, I was summoned to Town Hall for a meeting with the new Town Supervisor to discuss the development plans for our land on the west side of the bypass extension. Messrs. Cunningham, Leveille, and Deyoe were present from the Town, Peter Cornell and Bill Herbert were present representing

BBL and my father, Arthur Kontogiannis, was also present. At the meeting an itemized list of developmental and offsite mitigations costs related to both of our projects was handed to me. These costs included a percentage of the design and construction of an additional shared roundabout and utilities for both the KKS and Vista projects, as well as, a prorated percentage of shared sanitary sewer improvements identified by the Town in a recent study. These improvements were offsite beyond the scope of either of our... beyond the lands of either of our projects.

Although I am not sure of the source, I subsequently come to believe that the documents that were handed to me at that meeting were prepared by BBL. The KKS cost obligation identified in those documents was approximately \$540,000 and it did not include the cost of developing the shared Vista Drive as it would extend through our property. This is how it was envisioned in the draft DEIS.

I was also told I would be expected to participate in a special assessment district to amortize these costs which would be funded by a municipal bond floated by the Town. Interestingly enough, the total bond value far exceeded the sum of the Vista and KKS development and utility costs identified above. It also included approximately \$4.5 million of infrastructure improvements within the confines of the Vista project.

As I had not seen any of the cost apportionment documents before, I explained to the meeting attendees that I would further examine the cost relevant to the KKS development in relationship to equitable apportionment of the roundabout and utility cost by usable land or buildable square footage, one or the other. And, BBL requested that I do it by buildable square footage. Equitable apportionment, the cost that municipal structure mitigation related to the findings of the sewer study. In an examination of relevant supporting documentation, including the proposed utility layouts and sewer study – which I was furnished with at the meeting – and an assessment of land value offset associated with the relocation of the proposed roundabout which I will talk about in a minute.

Since I was unfamiliar with the concept of the special assessment district, I also wanted to examine this matter in greater detail. We agreed to meet again last Friday to discuss our findings. When I examined the roundabout and utility costs, I discovered that my prorated development share had actually been slightly underestimated – it was 14.6 percent instead of the 16.1 percent that I calculated. But, there was a preferred utility route that would reduce both our cost exposure – that's KKS's cost exposure – and provide further access to the lands on New Scotland... to our lands on the New Scotland Road side of the bypass. This particular utility route would also augment the design of the Vista project by providing an additional loop.

Of the design related fees that were provided to me at the first meeting, approximately half were appropriate for cost sharing while the others were either entirely unrelated to our project or subject of prior debate between BBL and KKS, where BBL elected to proceed in unilateral action. The offsite mitigation cost apportionment was more questionable. A 10.6 percent share had been assessed but this was based both on very preliminary KKS site development projections and a denominator consisting of only future projected build out in Slingerlands and North Bethlehem areas. A review of the sewer study revealed that key portions of the system are significantly over utilized at present and immediate action is required to rectify the situation irrespective of future development. By apportioning the offsite mitigation costs with respect to both existing and new development and also adjusting for KKS site specific impact, we determine the mitigation costs for our property development should be reduced to about 2 percent of the system wide total. As we conducted this review, we also estimated our cost share portion of the future Vista Drive that extended through our property and this was omitted to the documentation that was provided to us at the first meeting.

Our final review pertained to the revised location of the roundabout and again, this is not the location that was just explained by Mr. Urshbraum. This is a location that was identified in the draft DEIS. The location that was approved by the Town

Board last summer was directly between our shared property line was intended to provide us joint access from a single common unlimited access point. Subsequently, the conflict with the Dominion Gas Line necessitated the new placement. The new location chosen by BBL, and explained to you by Mr. Upprungs again, required additional KKS land that had previously been identified for our own development. Although we proposed an alternate location that would not have any adverse impacts on either our land or Vista's property and that does include wetland impacts within the proposed DOT right-of-way. Ultimately we chose to accept the BBL placement contingent upon the reconciliation of lands gained or lost between our respective parties. And, this was a verbal commitment, this was nothing in writing.

Prior to the meeting last Friday, I prepared a detailed cost apportionment summary, an email cover and I sent both them to the Town and BBL prior to the meeting. There was an opportunity to give them advanced notification of what I determined unlike the first meeting where I stepped right into basically something I was totally unexpected for. Based on my calculations the value of additional land to be donated by KKS properties exceeded the sum of the development and mitigation costs that I calculated and I expressed my expectations of an even trade which to me was a detrimental position. I also... I was also concerned about the implications of the special assessment district particularly the inclusion of the \$4.5 million in cost that would normally have been the responsibility of BBL alone and not at the expense of future credit worthiness of the Town and its taxpayers. I chose not to participate in the special assessment district as a result of it.

Upon entering the meeting last Friday I was greeted by Messrs. Cunningham, Leveille and Mr. Deyoe was present in the room but Mr. Cunningham and Leveille... there was an outright hostile manner that I was greeted. Messrs. Cunningham and Leveille accused me of extorting the Town and BBL. They told me I was not supportive of the Town's developmental efforts in the Slingerlands corridor. They told me they would try to acquire my land through an eminent domain procedure. They also accused me of being a greedy developer. What when Peter Cornell, Bill Herbert and an attorney from BBL arrived, the tone of the meeting deteriorated further. I did my fair share of screaming at this meeting. Regardless of my efforts to explain my apportionment methodology and discuss it in a rational manner prior to deteriorating to that point, I was continually refuted and hostile and combative manner particularly by Mr. Cornell with BBL. At the conclusion of the meeting and over my objection, Peter Cornell advised me and the Town that the roundabout would be moved from a mutually acceptable location to a new position that would serve BBL alone and if you noticed on the plan that was just presented, there is no access to our property from that roundabout.

My primary concerns are as follows, I've been fully supportive of the Town's developmental efforts to date. By providing the DOT contractor, Delaney Construction, unlimited access for materials, equipment, office space, and utility connection on our property all free of charge. KKS Properties has helped accelerate the project's schedule by several months at the very least. In effect, we allowed them to work the project from 4 different directions occupying about 10 acres of our property that they couldn't have done otherwise. We gave this to them and that was a request of the prior Town Superintendent who suggested that... you know, that we provide any potential help that we could.

We also identified water interconnection issues, not only the ones that I discussed now, but also off of North Bethlehem over by Krumkill Road that would help provide and augment water service for all of North Bethlehem and Slingerlands because we have a development just on the other side of the border. Any land negotiations between BBL and KKS should have been exactly that between our parties and without Town intervention. The actions of Messrs. Cunningham and Leveille undermined prior verbal commitments between the developers and called into questioning impartiality and integrity of the Town's representatives.

When a similar situation transpired about 18 months ago when we were looking for joint access location, Terri Egan very strongly encouraged us to get together and resolve our differences, which we did but very wisely she stayed out of that

discussion. That's what should have happened here.

The gross mischaracterization KKS Properties as greedy developers was unfounded and personally insulting, particularly in light of our efforts to expedite the DOT project to accommodate competing interests and work toward mutually beneficial solutions for the developers in the Town. I'm not a greedy developer, I have 2 jobs, I make ends meet with my wife. We don't drive fancy cars, we don't take half million dollar junkets to Las Vegas. I don't have... I don't take thousand dollar dinners. I barely make things get by and that's frankly it. We live in a nice home but we built it ourselves.

The unilateral decision to relocate the roundabout by BBL was a blatant effort to negate and nullify prior commitments between the Town and the developers. By agreeing to this position, Messrs. Cunningham and Leveille were complicit in this manipulation which clearly is not in the best interest of the Town. Consequently, I would strongly encourage the Board to investigate these matters further and take appropriate action to ensure the Town's best interests are served. Thank you.

SUPERVISOR CUNNINGHAM: Are there any other comments?

MR. KLEINKE: Thank you, Mr. Supervisor. My name is Ed Kleinke. I live at 62 Mahar Road and I just would like to ask for a clarification on the process from this evening's public hearing on whether this public hearing would be tabled and continued in light of the revised master plan. And, the suggestion that it be referred back to the Planning Board for additional comment and whether or not additional public comment both verbal and written would be received by the Board as part of this hearing record.

SUPERVISOR CUNNINGHAM: The public hearing will be continued and the plan will be referred back to the Planning Board.

MR. KLEINKE: And, then at a point in the future this public hearing would then be on your agenda and reopened?

SUPERVISOR CUNNINGHAM: Correct. I believe we will probably continue this public hearing at the next Town Board meeting on June 27th.

MR. KLEINKE: Perfect, thank you very much.

MR. KELLEHER: When Oliver Holmes was employed by the Town, I dropped out of the water supply issue completely guess I had great confidence in him. Now, he is retiring. Well, I had this question to ask – where's the water going to come from? The drinking water that you are committing for this project, where's it going to come from? Do you have a commitment from the City of Albany to supply this water? You mention North Bethlehem, are we going back to Watervliet? What's going on here?

SUPERVISOR CUNNINGHAM: I didn't mention North Bethlehem.

MR. KELLEHER: The gentleman just mentioned the water...

SUPERVISOR CUNNINGHAM: He mentioned, I did not mention North Bethlehem.

MR. KELLEHER: Well, I am asking you a question, have you got a commitment... a firm commitment from the City of Albany to supply this water?

SUPERVISOR CUNNINGHAM: The water will come from our existing water supply which is the Vly Creek reservoir and supplemented from the City of Albany.

MR. KELLEHER: Yes, isn't this going to require a lot more water? Maybe I'm... you know... first of all....

SUPERVISOR CUNNINGHAM: Can you comment on the water usage?

MR. KELLEHER: First of all, where... what's the status of getting water... raw water from the City of Albany?

SUPERVISOR CUNNINGHAM: Oliver, can you comment on the water usage?

MR. HOLMES: Well, I will make 2 comments. One, is this is a public hearing.

TOWN CLERK NEWKIRK: Come to the microphone please.

MR. HOLMES: One is it is a public hearing and I think you are supposed to take comment. I'm not sure that you really have to answer questions but I would be delighted to do that for you.

Bill, the Town has a comprehensive approach to water supply. As you know, we have the Vly reservoir, we have the Clapper Road facility which serves the industrial area and we have a contract with the City of Albany for an additional 4.5 million gallons a day should we take it upon need. So, we do have a long term plan in place. The demand placed upon the Town's system by the Vista project is about 150,000 gallons a day which within our long term plan fits. And, so there is an adequate supply to accomplish that.

SUPERVISOR CUNNINGHAM: Thank you, Oliver. Are there additional comments on the Vista master plan?

MR. LEVEILLE: Mr. Supervisor, I feel a little compelled to just respond a little bit to some of the comments that were made earlier. I think it is for the record. My recollection of events is significantly different than Mr. Kontogiannis's.

As you know, we have worked with both developers the last 2 years and it was frankly the Town that encouraged the parties to get together to try to build one access point to the properties and that was primarily to ensure Mr. Kontogiannis to have full access to his property which was not being offered by DOT. We work in good faith with all parties over the last 2 years to come to a reasonable accommodation for how the property would be shared and for who would pay for the relative proportion of those improvements that would be made to the benefit of the developers.

A lot of information came together very late and I certainly agree with him on that. But, the intent was always that there would be a sharing and a fair and reasonable sharing. On the night before the meeting, where we thought we would resolve this, remember that our interest here is this is a Town betterment. The Town is a party to what is being talked about because it is the Town who is requesting the betterment from DOT. So, clearly, we must be in the middle of this. We requested this, you approved it before. We've been talking to DOT about it but the developers are responsible for producing the drawings, the design, the impact analysis for all of these improvements and the money. The Town doesn't put the money up, the Town simply engages in the betterment, facilitates the betterment and then the developers who are causing the betterment to be built, pay for it.

We found out the night before this meeting and we are under a timeline here where this improvement... this road will be completed in October 2007, this segment of the road. In order for us to do this betterment in a timely manner so that the construction could be done while the road is being constructed, not after it is completed, and tear it all up again, we are under a timeline that all parties were well aware of. The night before this meeting that was mentioned, we received a letter that indicated that Mr. Kontogiannis would have no responsibility for any costs whatsoever and that the Town would be obligated going forward for a variety of approvals and permitting and all kinds of things. And, I think that was a reasonable basis for us to be concerned and upset a bit about what we were being asked at the last minute.

So, I do want to also point out that the location that is being proposed now is the original location that was suggested and considered as part of the DEIS for the roundabout. So, we had no opposition to it from day one. We simply felt that access in the middle would be more beneficial to all parties.

I do also object to the characterization of your conversation as being hostile or intimidating or cohorning with anyone. I do not believe that was the case. I think this was a regular meeting. I didn't find it was a very hostile meeting. I don't remember anyone shouting and I think at the end of the meeting I think we agreed that there was no agreement and therefore, the ability for the Town to have the betterment made while the road was under construction had evaporated. So, that's really my understanding of it. Thank you.

SUPERVISOR CUNNINGHAM: Thank you. There additional comments on the Vista project? Okay. I'd like to get a motion to refer the revised Master Plan back to the Planning Board.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to refer the revised Master Plan back to the Planning Board for further review and recommendation. The motion was passed by the following vote:

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

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The motion was made to continue the public hearing on June 27, 2007 by Mr. Messina and seconded by Mr. Kotary. The motion was passed by the following vote:

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

Town Clerk

The next item was to approve the Town Board minutes of May 9, May 23 and May 29, 2007.

The motion was made by Mr. Plummer and seconded by Mrs. Dawson to approve the Town Board minutes of May 9, May 23 and May 29, 2007 as submitted. The motion was passed by the following vote:

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

The following item was to consider adoption of a Resolution regarding Assembly bill A5774 creating the crime of aggravated criminal conduct. Supervisor Cunningham said this was being tabled until a later date.

The next item was the presentation of the 2006 Independent Auditors Report. Comptroller Kehoe said the audit was a highlight of the year for the chance when there is an independent set of professionals reviewing the books and giving some opinions as to the quality of the record keeping and the reliability of the information that is submitted to the State. She said it provides certain assurances to the Board and is part of the fiduciary oversight when you have engaged the auditors to come in and do this type of review. She said the full report is on file in the Town Clerk's office for any members of the public that might want

to review it. She said a summary of the balance sheet and the income statement will be put on the Town's webpage along with the footnotes.

The Comptroller said within the audit report there is included the management discussion and analysis which is intended to be the executive summary of the results for 2006. She said the General Fund and the Highway Fund were close to a break even with their operating results. She said they did have a sizeable surplus in the Water Fund and Sewer Fund, however, if you look to the totals that are reported to the State, it shows a deficit and the reason for that is because the transfers that are made from these surpluses into the Capital Reserve are shown as an expenditure. She said she highlighted that on the discussion and analysis so it could be differentiated between the operations which were, in fact, positive and then because of those surpluses we were able to make investments into the reserves for future Capital projects.

The Comptroller said the ending fund balance positions are noted along with notations as to reservations of that fund balance for 2007 for both the planned deficit within the budget and some proposed transfers into the reserves. She said each of the fund balances are within a reasonable and healthy range according to guidelines from the State Comptroller's office.

Comptroller Kehoe noted the auditors are in attendance if there were any questions. Katie Doran and Sarah Lawyer from Teal, Becker & Chiramonte CPAs gave a quick overview of what was found when the audit was done. Ms. Doran said they have completed their work noting perhaps the most important thing as auditors in the report is the Auditor's opinion that is attached to the financial statements. She said the financial statements themselves are the responsibility of management. She said management keeps the books and prepares the financial statements and the notes to the financial statements. She said their job is to audit the financial statements to determine if they are fairly presented. In their opinion, Ms. Doran said, it states that they conducted their audit in accordance with generally accepted auditing standards and that the statements are fairly presented in using the method of accounting that is allowed by the Office of the State Comptroller.

Ms. Doran said there is also a report to the audit committee. She said the Board does not have a separate audit committee so, therefore, they report to the Board in total. She said that report describes their responsibilities under generally accepted accounting principles and describes certain other significant accounting policies which she said are described in Note 1 to the financial statements and describes accounting estimates as an integral part of any financial statement and they are used by the Town. She said they did not note any sensitive estimates that would affect the financial statements that they would be required to disclose separately. She said they would be required to disclose to the Board any significant audit adjustments that were proposed or that were made that may not have been discovered except through the audit and they are pleased to comment that there were no significant audit adjustments that were proposed or made.

Ms. Doran said they would be required to disclose to the Board if there were any disagreements with management whether over the application of accounting principles or the selection of accounting principles and they were pleased to note they did not have any disagreements with management. She said they did not encounter any difficulties in dealing with management and, in fact, much to the contrary, management and staff were extremely cooperative. She said they would present a list of items that were needed and they were forthcoming with any records and schedules that were required. She said there was extreme cooperation from everyone that they dealt with in the Town.

Ms. Doran said they would be required to disclose if they were aware of any consultation with other independent accountants – sort of opinion shopping if management had discussed with other accounting firms the application of accounting principles and then went to our firm due to a disagreement with another accounting firm. She said they were pleased to note that they are not aware of any

such discussions other than in an ordinary course of a request for auditing proposals and the evaluation of those auditing proposals.

Ms. Doran said there is another letter relating to part of their audit that they are required to consider the system of internal controls in designing the audit procedures. She said their audit is not designed for the purpose of expressing an opinion on the system of internal controls but they are required to bring to the Board's attention anything during their testing that may indicate a significant deficiency or material weakness in the internal controls. She said they did not uncover anything that would indicate any significant deficiency or material weakness but they are required to bring attention to anything that may have been discovered during their testing that may be an exception to the system of internal controls. She said there is a management letter which has 1 paragraph stating that as part of the audit they try to do tests that may not have been done in the past and try to think of areas where there might be weaknesses.

Ms. Doran said one of the tests they did was to examine payments of credit card bills to make sure that payments were for Town expenses and were properly documented. She said in the testing they encountered one situation where there was a bill that was well documented but the item had been returned and there needed to be a credit from the credit card company. She said it was not followed up on a timely manner and she believes the credit has been received. She said that was the only exception in the credit card testing.

Ms. Doran offered to answer any questions or at a later time. Supervisor Cunningham asked if there were any questions. Councilman Plummer said he was questioning the fund balance of the report. He asked with regard to the balance on each of the funds showing the projected balance for the end of 2007 and the 15 percent rule of thumb and the reference to the figures. He said they are spelled out and then above it along with the recommended amount of fund balance that would be necessary to maintain the cash flow was the last figure the recommended number of about 15 percent. Ms. Doran said that would be the recommended floor and they would recommend that you would not go below that. Mr. Plummer said that was what they were recommending or is it the recommended floor. Ms. Doran said that as an auditor that was not part of their job. She said if it was imprudent and too small a balance, they probably would say it is not a good position and have concerns about that. She said this part of the report is management's discussion and analysis which was prepared by management of the Town. She said they are not offering an opinion on management's discussion and analysis but what the Office of the State Comptroller's rule of thumb is here is a floor and they would not suggest you go below it. She said historically in the water and sewer funds is that excesses have been transferred to the Capital Reserve in anticipation of future Capital expenditures. Councilman Plummer said what would trigger concern for the auditor was if it went below the 15 percent. Ms. Doran said that was correct, they would be concerned about the Town's ability to continue. Councilman Plummer thanked Ms. Doran.

Councilman Messina said he wanted to address one point and it has to do with the fixed assets that were not part of the review. He said he understands that and that there is a cost associated with it but he is interested in the balance of cost and effectiveness. He said they did review that and asked what Ms. Doran's sense of the Town making the decision to exclude the fixed assets from its review. He said the second follow-up question is, on a periodic basis perhaps not when every audit is done should this be looked at. Ms. Doran said there are 2 different issues here and 2 different means of taking an inventory and appraising the fixed assets. She said one would be to comply with what the governmental accounting standards for Pronouncement 34, GASB 34, which would be an appraisal of not just the bricks and mortar fixed assets of the Town but the infrastructure of the Town which would be required by this pronouncement and a calculation of depreciation on that in order to present that and present the financial statements in a manner that is similar to presenting the financial statements of a business. She said that is one issue.

Ms. Doran said the other issue is to have an inventory of the Town's assets maintained on the current basis, perhaps not calculating depreciation which probably would cost the Town less than an appraisal in accordance with GASB 34. She said it may be prudent for the Town to do that. She is not certain how much it might cost. She said the Town should send out an RFP to appraisal firms. Councilman Messina thanked Ms. Doran.

Councilman Kotary asked for clarity as to the only material weakness or if the only issue was that single item of the credit card refund. Ms. Doran said yes it was and she said she would not call it a material weakness at all. She said she would call it an issue with the internal controls that they came across. Councilman Kotary said as it appears from the management response, there are proper and necessary controls in place. He said this seems to just be one that slipped by. Ms. Doran said this was correct and it was a very small dollar amount so there is no impact on the financial statement. She said further it did not appear to be any trend because they did sample quite a few of the credit card transactions. She said because it was within their sample, they were required to report that to the Board. Councilman Kotary thanked Ms. Doran.

Supervisor Cunningham asked Comptroller Kehoe if she would like to update the Board on what has been decided on the credit card issue. Comptroller Kehoe said the statements are reviewed as they come in by the supervisor's of the departments, reviewed by Comptroller office staff. She said this one fell through the cracks and has prompted a log being instituted for follow-up on any types of this so it does not occur again. She said p-card transactions were included in the scope of the prior auditors as well and they had not noted anything so she thinks this would give some credence to Ms. Doran's point that this is not a prevalent issue or a major problem.

The Supervisor asked if there were any further questions. There were none and he thanked Comptroller Kehoe and Ms. Doran.

The next item was to acknowledge receipt of the 2006 Report from Comptroller indicating internal audits are complete for Town Departments.

Supervisor Cunningham acknowledged receipt of the 2006 Report from Comptroller, Judith Kehoe, indicating the internal department audits are complete.

The following item was to consider a request from Comptroller Kehoe, to transfer funds into Water and Sewer Capital Reserve Funds. Supervisor Cunningham asked Comptroller Kehoe to give some background. Mrs. Kehoe said this is a follow-up item to what was noted within management's discussion and analysis where they identified these prior surpluses that could be transferred into the reserves. She said this is also in anticipation of the later item on the agenda which is the work that will need to be done on Dinmore Road. She said this request asks permission to transfer the funds that are recommended into the Water Fund Capital Reserve for \$1 million and into the Sewer Fund Capital Reserve for \$300,000 and then also approving a budget modification to the transfers line item to enable the transfer to occur. She said the transfers do not compromise the financial health of any of the water or sewer operating funds. She said it is a tool they have to help manage the levels of fund balance in the 2 funds and help meet the obligations for the major repairs within the Capital Reserves.

The motion was made by Mr. Plummer and seconded by Mr. Messina to approve the transfer of \$1 million dollars from the Water Fund to the Water Capital Reserve and \$300,000 from the Sewer Fund to the Sewer Capital Reserve as requested by Comptroller, Judith Kehoe. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The next item was to consider appointment of a Planning Board Member. Supervisor Cunningham said he is requesting the Board appoint Kate M. Powers to the Planning Board noting he has known Ms. Powers for several years and is very hard working. He said she is a graduate of Assumption College and has a Masters Degree in Social Work from the University of Vermont with a law degree from Syracuse University and a Master of Public Administration from Syracuse University Maxwell School of Citizenship and Public Affairs.

The motion was made by Mrs. Dawson, seconded by Mr. Kotary to approve the appointment of Kate M. Powers to the position of Planning Board Member as requested by Supervisor John Cunningham.

Councilman Messina said he thinks it appropriate to make a couple comments. He said he did not know Ms. Powers well. He said perhaps it is his perspective or his age that gives him a lot of experience in appointments to things like Planning Board so he had to go out and meet with Ms. Powers. He said they talked about an hour and 15 minutes and he walked away from the meeting with full confidence that he could support her even though relatively new in Town. He said he wanted to tell the Board just briefly why that was.

Councilman Messina said on the Planning Board which is one of the 2 most important statutory boards in the Town, he looks for a balance of experience and perspective. He said the last appointment was John Smolinsky lined up here with Kate bringing over 30 years experience to the Planning Board. He said there are folks like Mr. Mathusa with experience on the Board. He said from Ms. Powers he got a willingness and ability to take a fresh look. He said he looked at her resume and talked about things that were not on her resume. He said the bottom line here is he will probably always say a couple words whenever he strongly supports someone. He said he does like to support appointees and let them know that they have his confidence going forward. He said he feels Ms. Powers will do her homework, be prepared and contribute to the Planning Board. Supervisor Cunningham thanked Councilman Messina.

The motion was passed by the following vote:

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

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Supervisor Cunningham congratulated Ms. Powers.

The following item was to consider appointment of a Member to CACC. The Supervisor said he was submitting the name of Paul Sieloff.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the appointment of Paul Sieloff, Slingerlands, New York as a Member of the Citizens Advisory Committee on Conservation. The motion was passed by the following vote:

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

The next item was a request from the Supervisor for approval of appointment of Clerk I, Temporary. Supervisor Cunningham said he was asking the approval of Eric Goldstein, Delmar, NY, as a summer intern in the Supervisor's office. He said Mr. Goldstein is a high school senior, Eagle Scout, worked as a page in Congress and he is going to be attending American University this fall. He said he will be working in their area doing some various clerical duties touring

various departments in Town providing a report of ideas he sees from his work. He said it will get Mr. Goldstein some exposure into local government. He noted he thinks it is very important that of people go to school and look at the National and the State level but he said he is very partial to local government. He said he will be proud to have Mr. Goldstein with him.

The motion was made by Mr. Messina and seconded by Mr. Plummer to approve the appointment of Eric Goldstein, Delmar, NY to the position of Clerk I, Temporary as requested by Supervisor Cunningham. The motion was passed by the following vote:

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

The next item was to accept the resignation for purposes of retirement of Bethlehem Police Sergeant Haker. The Supervisor said he has known Sgt. Haker since he was about 3 years old and he has been on the Police Department force for about 30 years. He said he has served the Town admirably and he will be missed.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to accept the resignation of Bethlehem Police Sergeant James Haker for purposes of retirement. The motion was passed by the following vote:

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

The next item was a request from Town Engineer, Erik Deyoe, for acceptance of deed for Bethlehem Children's School Land Division, 12 Fisher Boulevard, Slingerlands.

The motion was made by Mr. Messina and seconded by Mr. Plummer to approve the acceptance of a deed from Bethlehem Children's School Land Division, 12 Fisher Boulevard, Slingerlands as requested by Town Engineer, Erik Deyoe. The motion as passed by the following:

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

The following item was a request from Erik Deyoe, Town Engineer, for approval to go to bid for Aeration System Upgrades at Waste Water Treatment Plant. Could advertise on June 20 and open bids on July 17, 2007 at 3 p.m.

The following resolution was offered by Mr. Plummer and seconded by Mr. Kotary:

WHEREAS, the Town desires to advertise for bids for Aeration System Upgrades at the Waste Water Treatment Plant, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 20th day of June, 2007 and that bids be received up to 3:00 p.m. on the 17th day of July, 2007 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

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

Councilman Kotary said for the public, this approval is something that will save the Town approximately \$52,000 annually through the installation and upgrade of the system. He said it is a small example but he thought a great example of many things and ideas coming from Department heads. He thanked Mr. Deyoe and others who brought this to their attention. He said \$52,000 annually on a \$36 million budget is not a lot but a little bit goes a long way. He said this is a perfect example of us going out, finding a great program – in this case through NYSERDA – implementing it and seeing some savings on an annual basis. He wanted to commend those who brought this forward. He said he thinks this is a great program and looking forward to any help with this from NYSERDA. Supervisor Cunningham thanked Councilman Kotary.

The next item was a request from Town Engineer, Erik Deyoe, for Declaration of Emergency regarding the Dinmore Road Elevated Sewer Trunk Main.

The motion was made by Mr. Messina and seconded by Mr. Kotary to declare an emergency regarding the Dinmore Road Elevated Sewer Trunk Main.

Supervisor Cunningham said the Dinmore Road Sewer Trunk Main was brought to his attention the week he came into office when there were very severe rainstorms. He said he was doing a tour of Town facilities and Commissioner Holmes brought him down to Dinmore Road and they held a long discussion about the condition of the pipe. He said there was concern at that time that the pipe might actually be in motion given the volume of water going through and the condition of the land that was flooding at the time. He said they immediately brought in some engineers to try and look at ways to set up a mitigation in case there was a failure of the pipe. He said they have been working very closely with Clough Harbor over the last several weeks to come up with both a temporary mitigation plan and a permanent resolution to the pipe.

The Supervisor said the pipe is 35 years old and over the years it has expanded and contracted at the top of the pipe at a different rate than at the bottom of the pipe and caused the pipe to become crooked and caused the elevated piers that hold the pipe to become crooked and the concern is if the pipe breaks there will be the leakage of raw sewage onto the land which would end up in the Vly Creek and eventually in the Hudson River. He said they have no way to stop that should the pipe break. He said they are seeking a resolution to this and over the weeks of working with Clough Harbor, they determined that the mitigation plan presented would involve the building of scaffolding along the pipe and will cost in the neighborhood of \$150,000. He said at this time the pipe could be replaced in time to avoid any problems without going through that. He said this will permit the moving ahead of a new pipeline which will be buried – this involves putting dirt under the pipe and putting a berm over the pipe – to protect it from the elements and protect it from the issues regarding expansion and contraction. The project will be completed by the end of August, according to the Supervisor. Commissioner Holmes said this was correct.

Councilman Kotary said he not only supports this but he does not see how there is any other decision. He said the importance of this cannot be underscored enough, noting the entire sewer system goes into this pipe. He said they cannot wait for it to break so he thinks this action is the responsible thing to do. He said it is in the public's best interest and safety and, frankly, the Town is in a good financial position to be able to pay for this. He said he fully supports this.

Councilman Kotary said in regard to an earlier comment, as it relates to that, the Town-wide system is being looked at. He said this is something that is being considered in a global context with Town Engineer Deyoe and Commissioner Holmes and the entire staff's help. Supervisor Cunningham thanked Councilman Kotary.

The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The following item was a request from Town Engineer, Erik Deyoe, for consideration of adoption of a Resolution to authorize funding from Sewer Fund Capital Reserve for the Dinmore Road Elevated Sewer Trunk Main. Supervisor Cunningham asked for a motion to adopt the following resolution:

RESOLUTION NO. 17

RESOLUTION AND PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem in the County of Albany, State of New York has on the 13th day of June 2007, duly adopted, subject to a permissive referendum, a resolution as follows:

WHEREAS, the Town Board of the Town of Bethlehem has determined that it is necessary to fund the replacement of the Dinmore Road elevated trunk sewer, and

WHEREAS, it is estimated that the costs of said work will not exceed \$755,000; and

WHEREAS, in recognition of these needs, funds for such purpose are in the Sewer Fund Capital Reserve Fund; and,

NOW, THEREFORE, BE IT RESOLVED that it is in the public interest to complete the replacement of the Dinmore Road elevated trunk sewer as described above; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the expenditure of the reserve moneys to fund this project up to a maximum amount of \$755,000 and,

BE IT FURTHER RESOLVED, that the Town Comptroller is authorized to expend from the Sewer Fund Capital Reserve Fund the funds necessary up to \$755,000 in said reserve fund; and

This resolution shall be subject to a permissive referendum, as permitted by law.

The motion to adopt the resolution was made by Mr. Messina, was seconded by Mrs. Dawson and duly adopted by the following vote:

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

NOES: None.

ABSENT: None.

The following item was a request from Nan Lanahan, Administrator, Parks and Recreation Department, for approval of seasonal personnel.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the appointment of seasonal personnel as listed on the Memorandum from Nan Lanahan, Administrator, Parks and Recreation Department, dated June 13, 2007 at the titles and salaries listed. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The following item was a request from Administrator, Nan Lanahan, Parks and Recreation Department, for approval of resolution authorizing the Supervisor to sign a grant application regarding the shoreline along the Henry Hudson Park.

The following resolution was presented for adoption:

RESOLUTION NO. 18

RESOLUTION

Authorizing the submission of a grant application to the NYS Department of Environmental Conservation Hudson River Estuary Grants Program pertaining to the Henry Hudson Park shoreline stabilization feasibility study.

WHEREAS, the Town Board of the Town of Bethlehem has learned that the timber pilings holding back rip rap are rotting away and the concrete bulkhead is deteriorating rapidly. The shoreline continues to erode each year thereby impacting the park area and the safety of its patrons.

WHEREAS, the Town Board recognizes that the Henry Hudson Park is a valuable asset to the Town as a popular fishing, boating, and picnic area and they are dedicated to providing a safe environment for said activities.

WHEREAS, the Town Board has determined that it is in the best interest of the Town to study the shoreline and develop a plan to stabilize the shoreline in the park.

WHEREAS, the Town Board is applying to the NYS Department of Environmental Conservation Hudson River Estuary Grants Program to conduct a feasibility study addressing the shoreline issues.

WHEREAS, this study will provide needed information to develop a plan for future improvements.

WHEREAS, the amount of the grant is not to exceed \$25,000 with state assistance representing up to 75 percent of the approved project's cost. The Town shall provide the matching share of up to 25 percent.

NOW, THEREFORE LET IT BE RESOLVED, that John Cunningham, as Supervisor of the Town of Bethlehem or such person's successor in office, is hereby authorized and directed to file an application for funds from the Hudson River Estuary Program in accordance with the provisions of the Hudson River Estuary Management Act (ECL 11-0306) of the New York State Department of Environmental Conservation in an amount not to exceed \$ 25,000 and upon approval of said request to enter into and execute a project agreement with the Hudson River Estuary program for such financial assistance to the Town of Bethlehem for the Henry Hudson Park Shoreline Stabilization Feasibility Study.

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

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

NOES: None.

ABSENT: None.

Supervisor Cunningham asked if there was any public comment on non-agenda items. Mr. Robert Jasinski, Bender Lane, said he noticed Nan Lanahan was in attendance and he would like to make a recommendation that the Town Park get together with this Viet Nam wall that is coming in August and that we publicize it a little more than just the fact that we leave it up to the Viet Nam veterans to publicize it and get the people interested in it. He said there is a Viet Nam veteran on the Board he thought and he thinks he would go forward to promote this a little more than this would be promoted. He said he wishes the Town would get behind this completely and there is some money in the Town Park funds that could be used. He thinks it would be a good thing for the Town of Bethlehem.

Supervisor Cunningham thanked Mr. Jasinski and noted he agrees. He said for anyone who is not aware of what is happening, the replica of the Viet Nam Memorial Wall is coming to Town and it will be at the Parks and Recreation site the week of August 9 through the 12th. He said residents from the region, not just Bethlehem, but from the entire region will be encouraged to come and take a look at the wall. He asked Administrator Lanahan if there are plans in place. Mrs. Lanahan said they will be working with the group as they get closer to the dates and the plans become more finalized. Supervisor Cunningham said the group is going to contribute a significant amount to do the advertising so some tax dollars can be saved.

Councilman Messina noted that when this presentation was made to the Town Board, and he believed Mr. Jasinski was in attendance, he said they strongly supported this initiative. He offered to volunteer and told Mrs. Lanahan he would

be willing to help with this and be involved on behalf of the Board . He said he would be glad to do so.

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Supervisor Cunningham asked if there were any additional comments. There were none and he reminded everyone that the Garden Club tour is going on this date. He said there are representatives at the garden here at Town Hall. The garden has been dedicated to Ruth Voorhees and a lot of her plants are in the garden, according to Supervisor Cunningham.

The motion was made by Mr. Plummer and seconded by Mrs. Dawson to adjourn the regular Town Board meeting at 7:25 p.m. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

Town Clerk