

TOWN BOARD  
JUNE 27, 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  
Joann V. Dawson, Councilman  
Kathleen A. Newkirk, Town Clerk  
James T. Potter, Esq., Town Attorney  
ABSENT: Kyle Kotary, Councilman

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

The Supervisor asked for a moment of silence in remembrance of U.S. Marine Shawn Martin, killed by a roadside bomb in Iraq and William Johnston, former Town Board Councilman and Planning Board Member.

Supervisor Cunningham said they would start with public comment on agenda items. Mr. Robert Jasinski asked about Colonial Acres Golf Course and if information on a few items could be expanded on – the Town will maintain this, he believed. Supervisor Cunningham said the Town is going to lease and maintain it. Mr. Jasinski asked, under the assumption, that the Town Park and Rec will do this. The Supervisor said it will be part of the Parks and Recreation Department. Mr. Jasinski asked how we are going to employ the people that are there, noting Parks and Rec has a set wage on the people that mow and asked if there would be a problem. He asked if the same staff would be maintained because it seems like the Town's staff is extended on Parks and Rec. He said he was wondering what the thoughts are on this or if this will be discussed more when the item comes up. Supervisor Cunningham asked Councilman Plummer to speak to this item.

Councilman Plummer said more detail will be given when the item comes up. He said this is a lease between the Open Space Institute and the Town. He said if the Town Board votes to do that, then Supervisor Cunningham will be in a position to sign the lease. He said at this point in time, there is an agreement between the owners of the property and the Open Space Institute. He said the Open Space Institute is going to purchase it with its own money and from money from the State.

Councilman Plummer said there are 2 things going on before this can actually be finalized and the closing can occur. He said one thing is the Open Space Institute is having a survey done right now and they had to wait until there was agreement between the owners and them to do that. He said that should be complete in the next week or two. Mr. Plummer said number 2 there is an environmental assessment that is going on right now and it is his understanding that the report was just complete and the first reading of it by the Open Space Institute was that it was positive. He said if those 2 things happen – the survey turns out fine and the environmental assessment turns out fine – then there will be a closing and then, in fact, it will happen.

Councilman Plummer said if all this works out, that could occur in the next 2 to 3 weeks. He said as it relates to if that happens, how the Town would transition in indicating Mrs. Lanahan has spent a lot of time on this, and the plan now is there is an existing work force that the owners of Colonial Acres have right now. He said he thinks it is primarily 1 individual that takes care of the grounds and calls upon others if needed. He said the plan is to leave that in place and slowly transition. He said ultimately will that individual become a Town employee that is something that will probably have to be discussed. He said Mrs. Lanahan may

have more on that and details can be filled in but the thinking is to just leave it in tact as it is now and let it get organized and slowly transition into it.

Mr. Jasinski asked if this will come back before the Board so this can be talked more about this, noting he has more questions about this. He asked about how much we are leasing it for, what are the fees going to be – is it only for the Town of Bethlehem people. Councilman Plummer said he can answer a couple questions now – the lease is \$1.00 a year. He said the Town is in terrific position, very fortunate, that Open Space Institute stepped forward and that the State of New York is putting grant money into this. He said it is for both residents and non-residents. He said that is the use right now and also if you are recipient of State money, you cannot preclude others from sharing in that. He said the thinking will continue to be both for residents of the Town and non-residents.

Mr. Jasinski asked if there will be a yearly membership fee or will it be open payment as you use the course. Councilman Plummer said it is both. He said they have a membership fee now as he understands it in his last conversation with Mrs. Lanahan was that we are going to keep the status quo the way it is now. He said he goes out to golf once in a while but he is not the type to pay the membership fee. He said he goes over and pays the fee. He said the thinking now is to keep the status quo and get operational and see what the future will hold. Mr. Jasinski said the Town of Bethlehem people who are not a member can go in and pay just the set fee. Councilman Plummer said that was correct, noting they can do that now and it will continue that way.

Mr. Jasinski asked if there was any future money being poured into this such as roads, sewers. Councilman Plummer said at this point in time, they want to ease into this. He said he thinks if there are any upgrades, there may be a need for some facilities. He said there is parking and there is a stand, very small, that has some food and that's where you pay the fees. He said there may be a need to improve things like this but they have to wait and see. He said it is an excellent course and the thinking is to try and expand it so it could be used for snow skiing in the winter, more nature conservancy kind of trails, bird watching, and it could be more of a recreational area and more of a nature oriented environmental area than it is now.

Mr. Jasinski said the other question was if the Town of Bethlehem is getting a grant from the State and then turning that over to buy this. Councilman Plummer said the Town is not getting the grant; the grant goes to the Open Space Institute for the purchase. He said the Open Space Institute, as an organization does not hold onto properties like this. He said the discussions held with them now is that at some point, they will flip it to the Town and the Town will have ownership for \$1.00. He said we will be the tenant and they will be the landlord. He said the Town's role here will be to operate it and be responsible for any improvements, the maintenance, the operation of it. He said it is as if we own it when we actually do not but that is our responsibility. Mr. Jasinski thanked Councilman Plummer.

Mr. Jasinski said his other comment was some of the one liners on the agenda, they do not know exactly what it is when it comes up to the vote, lots of times the one liner is read and the vote taken when they do not know what it is. He said he would like to see more detail to the items. He called the Board's attention to the petition for special assessment district for water, sewer and road improvement. He said where is it, asking that it be expanded a little bit. Supervisor Cunningham said there will be discussion on that too.

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Ms. Linda Jasinski said with regard to the Colonial Acres, is the Town going to loose the tax revenue on the property. She asked if the school taxes and other taxes will be collected. Councilman Plummer noted it will be tax exempt. Ms. Jasinski asked if the Town plans on operating it to pay for itself or is it a loss. Councilman Plummer said in his judgment, it is to be used to make money. He said from the numbers they have seen, he is confident that the Town can break even. Ms. Jasinski said that is okay, it is the important thing that taxpayer dollars will not be spent on it.

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Mr. Bill Herbert with VISTA Development Group said he had a letter that was sent in to Supervisor Cunningham on the special assessment district matter and he would like to read the letter for some background to the Board.

Mr. Herbert read the following letter:

Dear Supervisor Cunningham:

As you know, Vista Development Group, LLC has submitted petitions to the Town Board for the extension of Water District No. 1, the construction of lateral sewers within Sewer District Extension No. 14, Area Number 1 and the construction of road improvements. These improvements would occur in the area of Vista's proposed development on Route 85 bypass. As part of the process for approval of these actions pursuant to the Town Law, the petitions set forth maximum amounts to be expended for the improvements. Collectively these total \$7,924,000 all for public infrastructure. It is contemplated that the Town would issue bonds ranging up to 40 years in length depending on the type of infrastructure, noting this is the max of any possibility and that is dependent on the type of infrastructure to fund the construction of the infrastructures called for in the petitions.

The principle and interest on the bonds would be repaid through real property tax assessments upon the benefited properties, i.e. the petitioner's lands. Inasmuch as the affected property is currently undeveloped, Vista has proposed the posting of Letters of Credit that would ensure that the Town of Bethlehem would not incur any financial risk. The Letters of Credit would be reduced proportionately as the property was developed. An agreement formalizing this arrangement would be finalized before the Town Board authorized the issuance of any bonds and the construction of any improvements. If the construction of infrastructure is phased, it is contemplated that Letters of Credit would be phased, as well, so that the Letters of Credit cover the amount of bonds being issued. In this way, the Town and property owners can be assured the cost of the infrastructure will not cause any undo burden upon them.

Mr. Herbert said basically, again, that is a little bit of background I wanted to read for the Board's benefit. Supervisor Cunningham thanked Mr. Herbert.

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Supervisor Cunningham asked if there were any other public comments on agenda items. There were none.

The Supervisor noted before beginning the public hearing that Councilman Kotary was absent due to a strep throat.

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HEARING REOPENED: 6:00 p.m.

SUPERVISOR CUNNINGHAM: Can I have a motion to continue the public hearing on the Vista Master Plan.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to reopen and continue the public hearing on the Vista Master Plan. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Kotary.

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We'll now take comments on the Vista continuance of the public hearing for the Vista Master Plan. Before we start also, I'd like to just enter... have the Clerk enter into the minutes a letter from Karen Casey, Slingerlands, New York.

PLEASE READ AT THE TOWN BOARD MEETING ON WEDNESDAY

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

EVENING. I AM UNABLE TO ATTEND DUE TO A FAMILY ILLNESS.

Sincerely,

/s/ Karen Casey

Slingerlands

As a Slingerlands resident, I am sick about the proposed Vista Technology Park's impact on the environment and the various wildlife that will be displaced. There are hundreds, if not thousands of deer back in that area. What happens to them and their habitat? They will be forced to relocate to our backyards and streets, endangering the motorists even more so than it does now with the large deer population. They, and all of the other wildlife, have just as much of a right to live in a safe and protected environment. The Vista Technology Park will destroy their local habitat.

We moved here (and my husband grew up here) because we love the peace and quiet of our lovely hamlet. We and our neighbors do not want Slingerlands turned into another Clifton Park. Keep the technology parks in Albany and in the already congested areas north of Albany. Don't ruin a good thing. Slingerlands is beautiful. Don't sell out for the sake of money and jobs. There are plenty of jobs out there and becoming available in the tech parks elsewhere.

Our Town already looks like a war zone with the construction of the round-a-bouts. I implore you to please think of how much our hamlet will be ruined by this tech park. We will be losing the charm and beauty of Slingerlands, not to mention the number of beautiful mature trees that will be ripped down. Please reconsider this move. I think you will lose a lot of long time residents over this. Our taxes are outrageous. Let us have the peace and quiet that we deserve (and pay for).

Sincerely,

Karen Casey

Slingerlands

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MR. RICHARDSON: Good evening, I'm Joe Richardson. I'm a Member of the Town of Bethlehem IDA and a citizen of the Town of Bethlehem since 1980. I left a letter that I want to read for the record in my office to get out with the storm. So, I think this will be the first with technology and reading from a blackberry.

SUPERVISOR CUNNINGHAM: Excellent. We like technology here at Town Hall.

MR. RICHARDSON: I write to express my support of the Vista Technology campus master plan as I have been involved with the planning of a commercial campus in the Town for over 10 years. You recall that Albany County selected the Vista proposal over 4 other developers submitted County locations as part of a \$1 million incentive to create a shovel ready campus. The Vista proposal led by the BBL Development Group was awarded the incentive package. The proposal and subsequent studies have demonstrated that the project will have a substantial and positive effect on the tax base for the Town of Bethlehem. An economic and fiscal impact analysis prepared by independent consultants has substantiated that the absorption of this project will contribute to the Town's well being and provide a balance to the residential development growth that has occurred in the Town.

Although the Vista project will help the Town of Bethlehem bring its comprehensive plan to fruition for this section of the Town, the Town's planning department has held the Vista Developer to a very high environmental review standards. The EIS report thoroughly evaluated the transportation, natural resources, water, sewer and storm water impacts and designs for the project. In every respect, the Vista Developer has worked with the Town staff and the Town's IDA to address any concerns and to set forth appropriate mitigation measures. Thus the master plan should be approved by the Town.

Moreover, my understanding is that the recent minor change to the master plan involving relocating the roundabout and the right in right out access to the site is

environmentally neutral and should not stand in the way of approval of the revised master plan for this very, very important project. While it is unfortunate that adjoining property owners cannot always agree on access issues, a disagreement among private parties should not discourage the Town from moving forward with this project.

The economic benefits of this project will assist the Town in providing education, public services and jobs for its residents. And the timing could not be better with the recent announcements here in Tech Valley. The Town Board and staff should be commended for their efforts to review and evaluate the Vista project and should confidently approve the master plan.

Thank you.

SUPERVISOR CUNNINGHAM: Thank you, Joe.

MR. VENEZIA: Frank Venezia. I am the Chair of the Bethlehem IDA. I'm here speaking in favor of the project, the Vista Technology Campus. This project has been on the radar screen for 3-4 years. Back in 2003 the IDA sponsored some economic forums bringing the public in to this room to discuss a variety of different development options that were on the IDA's radar screen. Vista was one of the projects. I am happy to say that in the comp plan there is the requirements to develop balance for the Town and as Joe stated, this is something that will help balance the Town's tax base. It's a project that I think brings to the Town significant benefits with a minimum of disruption, traffic and other issues. I'm here to say that I'm in favor of the Vista Technology project. Thank you.

SUPERVISOR CUNNINGHAM: Thank you.

MR. MATHUSA: Good evening, my name is Parker Mathusa. I'm here representing the... I'm Chair of the Planning Board, representing the Planning Board this evening. As you may recall at the Planning Board meeting on June 4<sup>th</sup>, 2007 the Planning Board reviewed the concept for the Vista Technology Park. We've had a number of comments on it and the applicant made a number of revisions. From our prospective the overall concept that we reviewed on June 4<sup>th</sup> was solid and we felt would fit very well into the community and address the number of environmental issues, traffic issues and development issues.

At your Town Board meeting on the 13<sup>th</sup> during the hearing, you made a motion to refer the concept back to the Planning Board for consideration due to a relocation of the roundabout from the northern site to a southern site. We spent quite a bit of time reviewing all of that, the various options related to it. From our perspective, the Planning Board felt very comfortable with it... with the new revisions and approved it unanimously for your reconsideration. We feel very comfortable with the design and we feel it will move forward without any difficulty. So, we recommend that you proceed with the concept.

SUPERVISOR CUNNINGHAM: Thank you, Parker. Other comments.

MR. KONTOGIANNIS: I'm sorry. My name is Constantine Kontogiannis. I don't know how I am going to follow all that but I'll give it a try.

SUPERVISOR CUNNINGHAM: Give it a shot

MR. KONTOGIANNIS: Live at 12 Shanks Place in Delmar and managing partner of KKS LLC. We own 22 acres of land on both sides of the Slingerlands Bypass Extension currently under construction. Of this land area approximately 18 acres are on the west side of the bypass extension and the southern portion of these lands are adjacent to the proposed Vista development.

The Vista project is proposing to relocate the roundabout, originally intended to serve both of our properties to a point that will only serve their property. The revised location of the roundabout should be denied for a number of reasons as they relate to both the process and technical aspects of the proposal to relocate it.

Again, trying to narrow down on just this issue not looking at anything else as it relates to the Vista project but the matter of the roundabout, some of the things I brought up last week.

The process related issues on this relocated that I have with this matter are as follows. After the Planning Board action of last week, providing a positive recommendation for relocation of the roundabout as you hear Mr. Mathusa further elaborate on right now, we submitted a FOIL request to obtain both the content of their recommendation and all supporting documentation provided by Vista pertaining to the request for the new location, this included the Vista consultants, any third parties that might be interested, such as DOT, CDTA, etc. In addition to receiving a copy of the final Planning Board recommendation as well as a draft and another recommendation letter from the Town, only 2 other supporting documents were provided. One was the new map of the Vista project which I believe is probably similar to what is up on the wall there and the second item was a 4 page email from the Vista legal counsel to the Planning Department. At this time, I would just like to give a package of exhibits that I am going to refer to in the remaining of my conversation. I apologize the power went out after I made 4 copies, that's all I could do. I would like to enter all this as a matter of public record.

The 4-page email is filled with false representations and outright lies relating to the failure of the Town, BBL and KKS to finalize an agreement on the roundabout. My position on these matters was clearly stated to the Board at the last meeting and directly contradicts the position of the Vista counsel in this email. As I explained earlier, the primary consideration and the lack of agreement centered on the creation of a special assessment district and the use of municipal bonding not only to fund the roundabout and shared utility improvements in the public right-of-way but also approximately \$4.5 million of non-related infrastructure improvements wholly within the confines of the Vista project.

This would not only have a direct and substantial economic detriment on our planned commercial development as it would create an anti-competitive type situation where we don't have a similar benefit developing the infrastructure on our property but it would also legitimize the use of additional public funds for private development that were not contemplated in the EIS prepared by Vista and accepted by the Town. Exhibit number 2 in the package includes the complete breakdown of the special assessment costs provided by Vista to us on May 29<sup>th</sup> of this year at a meeting in Town hall.

The email also accuses us of coercing the Town into unregulated development of our lands and our unwillingness to cost share in the construction of the roundabout and shared utilities. This is also false statements since we provided written documentation to the Town and Vista on June 7<sup>th</sup> that included our cost apportionment estimates and offset costs for lands that Vista would gain and we would lose as a result of a prior relocation from the earlier land neutral position. I just want to try to explain this for a second. When we placed the roundabout over the gas line, it was neutral between our properties. When the Dominion issues necessitated the relocation of there were a multitude of places to move it. BBL elected to move it into a spot that cut into 1 of the 3 developable parcels and we made it clear that the offset and the additional land that would be required for that would need to be compensated since they would be gaining an equal amount of land on their property for future development. It's that simple. However, we were never, never able to fully discuss the cost apportionments because the over arching issue with the special assessment district was a stumbling block. Essentially, I think that's what stopped the meeting.

Exhibit 3 in the package provides our cost apportionment and summary sheet provided to Vista and the Town on June 7<sup>th</sup>. The email states that we have no vested interest in developing our property at this time. This is also blatantly untrue. To date, we have spent over \$100,000 in developing our project. Unlike the Vista process for the Planned Development District, our project requires subdivision approval as the first step. We submitted a subdivision plan to the Town last year, however, we simply cannot finalize the plan until our access locations and lot lines

are fully defined. This is one of the requirements of subdivision approval; you need to have meets and bounds for all of your property and access locations fully nailed down. That's something that is not required of Vista so that is, you know, a different issue here.

The important thing to note is since we have submitted that subdivision plan; we are now changing these locations a 3<sup>rd</sup> time. So, we still can't move forward and finalize our subdivision plan. This is hurting us. At no point did the Planning Board contact us or attempt to solicit our comments on the roundabout relocation. This is troubling to me for this reason and that is, we have a subdivision plan in front of the Planning Board that shows the roundabout location where it is and we have ample justification including that in the plan. I just don't understand why we were not contacted as part of the Planning Board's review process.

As determined by our FOIL request, it appears that there was no other supporting documentation that was provided to the Town from BBL, Vista, its consultants or interested 3<sup>rd</sup> parties related to the roundabout relocation. Nothing from DOT, nothing from CDTA, nothing from the Slingerlands Fire Department or any of the other interested parties. Based on the inaccurate information provided by Vista in the email directly contradicted by our earlier public comments and the information I've provided to you at this time, plus the lack of technical detail provided by the other interested parties, I believe the Town Board should refuse to accept the Planning Board's recommendation for the new location of the roundabout at this time and that it should immediately call a meeting between all the interested stakeholders to address these issues and work it out. These are not irresolvable issues.

This completes my comments on the process related issues, on to the technical issues. The new roundabout location clearly goes against the intention of DOT to provide managed access to the properties off the new State Route 85 corridor. This new location that is being proposed together with Vista's elimination of the connecting roadway between our properties will require KKS to seek additional access points from DOT to develop our property consistent with the provisions of the current zoning. I've attached the location of the prior interconnecting roadway overlaid with the new Vista plan on exhibit 4 for your reference and that's just basically showing all the... the location where on all of the prior permutations of the roundabout, everything else... we'd always contemplating having a shared access point – not only for public transportation but for emergency services and other contingencies. Now, the new roundabout location, elimination of the collecting roadway does not provide a logical route for public transportation serving both KKS and Vista. It does not provide best practice designs for emergency services nor does it provide the contingency reroute provisions around the Dominion natural gas line crossing Route 85 that was incorporated in all of the other earlier designs. The new location provides absolutely no interconnectivity to the proposed hamlet area, which was a stated objective of the Town.

The funding scheme proposed by Vista for the new roundabout also includes substantial private development expenditures utilizing the Town's municipal bonding capability. The net value of the Town's bond holder capacity and the interest rate breakdown associated with a portion of the bond contemplated for private development expenditures far outweighs the property tax contribution by Vista as stated in the environmental impact statement. Now, I think we probably get this here but for the benefit of everybody else, if I got to go to the bank to build improvements on my property; I'm paying 7 percent for argument sake. If BBL is going to finance this but uses special assessment district to build improvements on their property, they're going to get a municipal bond at 4 percent. That interest rate reduction has a value to it, not only a beneficial value to BBL but also a detrimental value to the Town in that it reduces your bond holding capacity in the future for other legitimate projects as you may see fit.

The continued use of public funding for the Vista project in a manner that was never contemplated before will create a net economic detriment to the developers of the surrounding projects due to the anti-competitive nature of the subsidy. Based on the proposed value of the special assessment district and the private costs

we estimate a 5 percent loss in rental value for our property from the subsidy alone as it pertains to similar usage and build out of retail and commercial – the secondary uses that have been eluded to in the Vista project that could range anywhere between 20 and 50 percent of their project. This was clearly not an intent of the comprehensive plan.

Based on both the process and technical matters above, the Town Board should reevaluate the Planning Board recommendation pertaining to the roundabout relocation pending a full disclosure of the complete transportation and economic impacts associated with this change. Likewise, the Town should not accept the petition for the special assessment district related to this relocation until the aforementioned matters regarding the private expenditures and the private development infrastructure can be fully explored. Thank you.

TOWN ATTORNEY POTTER: Mr. Kontogiannis, can I ask a couple questions?

MR. KONTOGIANNIS: Yes, you sure can.

TOWN ATTORNEY POTTER: If you don't mind. Now, the roundabout was originally proposed to be exclusively on the BBL property, correct.

MR. KONTOGIANNIS: There were 2 initial proposals, we were planning to propose a roundabout on our property, BBL was planning to propose one on theirs. When we prepared the documentation showing 2 roundabouts, at that point, I believe, Ms. Egan or the Town Board or somewhere the decision was made to combine them into 1. Part of the reason why was DOT stated that 2 roundabouts essentially wouldn't work in that area and we agreed. We think access management is important and there needs to be connectivity through the properties. The roundabout could go right where it's going right now where they're proposing but the fact matter is without the inner connectivity, between the properties that's not going to fly, it doesn't work.

TOWN ATTORNEY POTTER: Now, if the... where the roundabout was proposed to serve both the BBL, the Vista project and your project, who was going to pay the monetary cost of building that roundabout. That was BBL wasn't it?

MR. KONTOGIANNIS: Yes, initially the cost to build the roundabout and I'm stretching my memory because I can't remember whether it was a roundabout or signalized intersection at first but in the original location it was going to require a little bit over 4 acres of our land and it was going to jet on through 1 developable parcel into the Vista property. And, at that point, BBL was going to pay us a lump sum plus the cost of the infrastructure plus a portion... again, we were going to share some of the utility cost there. Now, it moved to a land neutral location over the Dominion line meaning that both of us would have to pay a prorated share of development costs and we each calculated those. I don't think... there may be a dispute on a few of the numbers here and there but by and large those are all resolvable issues. The issue was moving it off the Dominion line at Dominion's behest and moved it onto our property and off of their property with an offset of an acre and a half approximately. And, that land offset, basically, was something that was beneficial to BBL and detrimental to us. So, it was our expectation that we would find a settling point somewhere between the land neutral location and an earlier agreement where many of the costs were going to be borne by BBL.

TOWN ATTORNEY POTTER: Under the roundabout as it was finally proposed, how much of that was going to be on BBL land and how much on your land?

MR. KONTOGIANNIS: Before it was moved here?

TOWN ATTORNEY POTTER: Yes, correct.

MR. KONTOGIANNIS: Most of it was on our land.

TOWN ATTORNEY POTTER: Okay, how much of it was on BBL land now?

MR. KONTOGIANNIS: Of the roundabout itself? Probably 5 percent or less.

TOWN ATTORNEY POTTER: And, how much per acre were you looking for from BBL as an offset for the cost of constructing the roundabout?

MR. KONTOGIANNIS: When we sat in discussion, I think the number that I calculated there but we never really got to talking about was \$300,000 an acre.

TOWN ATTORNEY POTTER: And, how much... didn't you sell land to the State of New York?

MR. KONTOGIANNIS: For \$75,000 an acre but keep in mind something, \$75,000 an acre may or may not be the true cost of land. Go over to Terramere and ask to buy a lot? See how much they are getting for a 1 acre lot for instance or similarly down in the Harriman Campus less than a year ago, BBL, I believe, bought approximately 10 acres of land that is zoned very similarly to our property and they paid \$400,000 an acre. The important thing is not what we put in there as a land offset cost, it's looking at where we were in our original agreement with BBL as... it... when it was originally either the roundabout or signalized intersection mostly on our property. Comparing ourselves to that point, we were taking a big hit. I was willing to do... that \$300,000 an acre was a number for argument sake. If you look at the cover email, I basically said it's a wash. It's not anywhere... we'll take about I think it was about \$150,000 hit off that so essentially it would bring the number down to probably \$150,000 an acre and we'll just make it a wash to get it done. All we wanted to do was have BBL pick up our cost of the roundabout construction and the utilities that they defined within the DOT right-of-way.

TOWN ATTORNEY POTTER: Weren't there other things that you were asking for from the Town, for example, weren't you asking for the Town to waive the cost of any infrastructure that would be caused in the future for any of your development on either side of the bypass?

MR. KONTOGIANNIS: Let's take a look at the email; you've got it right in front of you.

TOWN ATTORNEY POTTER: Yea, I do and it says, 'all mitigation and developer fees present and future for offsite municipal infrastructure improvements attributable to the KKS land development on both sides of the bypass shall be waived by the Town in their entirety'.

MR. KONTOGIANNIS: Sure. But, wait a second, read up about 3 paragraphs where you say, in consideration for us providing the land at no cost to do the work... this was a requirement and the reason why is if you read the breakdowns of those assessment fees, you see that the assessment fees come no where close to equaling the land value. We did the calculation of those mitigation and assessment fees as part of that summary breakdown and determined, we are going to take the hit on this but you know what, fine by us, we're going to do it.

TOWN ATTORNEY POTTER: And, wouldn't this effectively require the taxpayers of the Town to fund any infrastructure that you might want to... need and require into the future? How would we have the ability to assess that?

MR. KONTOGIANNIS: I wasn't asking for the Town to pay for the cost of constructing infrastructure. As a private developer, those are my costs wholly to bear on my property. I was merely saying that for our shared utilities... for the cost portion of shared utilities and offset mitigation for things like the pump stations, because the pump stations in that area are in pitiful shape, we came up with a number. We said this is a calculable number based on \$2 million based on an offset improvement and since those costs... our percentage of those costs... is so much less than the offset value of the land in consideration of giving the land, the Town would waive those costs. A reasonable request especially considering that we were the only ones who stood to lose on this compared to the position that we were in a year or 2 ago.

TOWN ATTORNEY POTTER: So, the property... the construction would benefit BBL and this... KKS but the Town taxpayers in the future would have to fund any infrastructure costs.

MR. KONTOGIANNIS: No, the Town... those costs would be borne by BBL. I'm... you know, those costs would be borne by BBL. It was that simple. That was the original agreement.

TOWN ATTORNEY POTTER: How would we have the ability to assess that against BBL if 10 years from now you make a proposal to develop your property and the BBL project goes through today?

MR. KONTOGIANNIS: Well, we submitted on that breakdown sheet, we showed the acreages and the buildable areas that we were planning on building on to come up with the calculations... the water impact, the sewer impact, and the road impacts... the actual private drive coming through. So, we calculated all of those costs in advance. Now, needless to say, if we deviated from those square footages, if we didn't build 225,000 square feet, we built a million square feet down the line, it would be my full expectation that the deal would be off. I was asking for an agreement to solidify this. If you read the bottom of the email, I asked for an agreement to solidify this with the understanding that there was going to have to be some further discussion on it.

TOWN ATTORNEY POTTER: How soon does the roundabout have to be built?

MR. KONTOGIANNIS: You want the honest answer to that?

TOWN ATTORNEY POTTER: Yes, absolutely.

MR. KONTOGIANNIS: Well, it all depends on who you talk to. If you talk to most of the folks from Delaney and you talk to most of the folks from DOT that I speak with, it is water under the bridge. It's going to be a very... unless the road is physically held up... the road project is physically held up, to get the full design at either of these locations into that plan and constructed with the current... the new highway alignment, is going to be very, very tough if not totally impossible and that's not me talking. You know, I think if you guys got an honest assessment, if you spoke to the construction guys out of the trailers and I do every day, that's what they tell me. It doesn't matter really which roundabout location is proposed, it's not... again, stating this as a third hand or second hand statement, it doesn't seem like it is likely either way. Therefore, why not just sit back and figure out what really works right at this point.

TOWN ATTORNEY POTTER: Well, if we sit back and we don't... and the roundabout doesn't get built now, doesn't the road get completed and isn't it significantly more expensive to build the roundabout later.

MR. KONTOGIANNIS: It is but what I'm saying is by listening to them even when we had submitted the last proposal, it sounded like it may have been too late at that point. Here's the thing, all of these issues we could sit in a room tomorrow and come out with an agreement. That's not holding up the roundabout. It's a lot of other procedural issues with DOT. It sounds like DOT is requiring... at least revised traffic... a revised traffic study on either of these roundabout locations. You know, it is what it is. That's not my effect on it.

TOWN ATTORNEY POTTER: Thank you.

MR. KONTOGIANNIS: Anybody else? Thank you.

MS. BACKNER: Hopefully everybody can hear me now that it's short enough for me. Thank you very much for giving me the opportunity to speak tonight. My name is Theresa Backner and I'm with the law firm of Whiteman, Osterman, and Hanna. I'm speaking tonight on behalf of my client Vista Development Group in response to comments made by Mr. Kontogiannis at the public hearing last time

and the public hearing tonight.

The master... Mr. Kontogiannis as we all know is an adjoining landowner to the property owned or controlled by Vista for the development of the Vista Technology Campus. My clients made every effort to reach an agreement with Mr. Kontogiannis that would mutually benefit Mr. Kontogiannis's property and Vista property. It was never Vista's intention nor would it be commercially reasonable to make ... of access and utilities to Mr. Kontogiannis. To the contrary, over the course of years, many years, Vista has worked with Mr. Kontogiannis to identify ways in which he could participate in the access and utility portion of our project so that his property value and his ability to develop his property would be greatly enhanced. And, I think it's instructive to realize that his property comprises, I believe he said, approximately 20 acres and the property that we're developing is in excess of 300 acres.

In spite of these efforts over many years, it was ultimately not possible to agree with Mr. Kontogiannis to commercially reasonable terms. Mr. Kontogiannis makes a great deal of his limited cooperation with Vista to date. A review of the efforts and resources expended to date demonstrate that Vista has essentially carried Mr. Kontogiannis to this point. Vista paid for the EIS, Vista has expended considerable resources on traffic experts, site designers and unfortunately attorneys in order to bring this project to fruition in the MED zone and to help the Town of Bethlehem achieve its goals as expressed in the Town comprehensive plan.

Mr. Kontogiannis has proposed no site development for his site. He has prepared no environmental documentation, retained no experts and has expended no resources beyond his time and effort as a landowner. To date Vista has expended on the order of \$1.4 million in soft costs in order to get to this point in the process - the public hearing on the master plan. The project requires approvals from the Town of Bethlehem, the Town of New Scotland, the United States Army Corps of Engineers, the Department of Environmental Conservation, and the New York State Department of Transportation, last but certainly not least.

All applications have been submitted for these approvals and numerous meetings have been held to answer permitting agencies questions and to modify the project to meet any concerns expressed. It has taken a long time to get to this point in the process, that's not a criticism of the process, it is merely a statement of fact. Any project takes a considerable expenditure of resources given the environmental review that is required in the State of New York.

At some point, any project sponsor has to decide what risk it can bear in undertaking a project. Last month, the inability of Mr. Kontogiannis to agree to a commercially reasonable terms forced Vista to reassess the location of the roundabout and the right-in, right-out access for the Vista project. It was simply no longer possible to delay the project and put at risk Vista's ability to construct the roundabout in a time frame consistent with DOT's construction of the Slingerlands Bypass. In short, if Vista were to have protracted further negotiations with Mr. Kontogiannis, negotiations that in our judgment were unlikely to be fruitful in any event. The opportunity to build the roundabout in a timely manner would have been lost and we met with DOT as recently as June 20<sup>th</sup>. We had a meeting with all of the people at DOT Region I including the Regional Director and we discussed with them the new location of the roundabout. And, we happily provided a traffic analysis again to both the Town and also to DOT. And, our goal simply put in doing this and doing this work as fast as we possibly can is to make sure that it can be built without the destruction that would be caused by constructing it after the Slingerlands bypass is completed and open.

The roundabout has been moved, as Mr. Potter said, to an area of the site where it was originally proposed to be located. DOT determined that, I believe, in 2005 to go with roundabouts and that a traffic light access to this property would not be acceptable. And, the first location proposed by Vista was this location coming off of LaGrange. However, the location was shifted in an attempt to deal with provision of common access. When we shifted it we were not aware that Dominion Natural Gas pipeline would not agree to that location. So, we've had to continually

adjust our expectations about what we can build at the site based on things that are essentially beyond our control. And, one of those things was the Dominion pipeline. We didn't desire to shift the roundabout onto Mr. Kontogiannis's property, we essentially had no choice.

To continue to achieve the Town's objective and to satisfy Dominion and with the full knowledge of Mr. Kontogiannis the roundabout was placed entirely on his property. This left us vulnerable to continue in good faith that Mr. Kontogiannis and away from Vista's ability to move forward with the master plan absent a written agreement with Mr. Kontogiannis. In the weeks before the master plan was to be reviewed by the Town Board, Mr. Kontogiannis and Vista could not come to an agreement. To date there has been no agreement between Mr. Kontogiannis and Vista. Essentially as I read the emails and various correspondence what Mr. Kontogiannis wanted from Vista and the Town was no obligation to pay for any offsite improvements including those improvements that would benefit his property and increase its value, payment for his property at a value not supported by any appraisals and inconsistent with payments made in connection with DOT. No obligation to reimburse Vista for any of the substantial soft costs incurred by Vista to date that also directly benefit his property.

Mr. Kontogiannis has made several allegations against both the Town and Vista that are simply untrue. Vista has never sought to disadvantage Mr. Kontogiannis in the development of our property. At great expense and anticipating a good faith effort by Mr. Kontogiannis we expended substantial funds to obtain the necessary signoffs for the roundabout that benefits Mr. Kontogiannis. Vista never sought to have Mr. Kontogiannis's property burdened by a special assessment district that would cover costs incurred by Vista to bring utilities and other services on to Vista's property. Indeed, as Mr. Herbert has indicated earlier, the plan was never to put the Town or anyone else at risk but to post what is a credit for the improvement so that in the event that a special assessment district taxes didn't come to fruition, the Town would have absolutely no risk nor would the Town taxpayers have any risk. Nor, is Mr. Kontogiannis correct in his assessment that this somehow diminishes the economic benefits that Vista will provide to the Town.

Lastly, it was only fair, however, to expect that Mr. Kontogiannis would pay his prorated share of the offsite utility costs necessary to bring the Town's water and sewer to his property and for his prorata share of roundabout costs. I do believe that Mr. Kontogiannis did not understand the terms that were being offered to him by Vista. However, less understandable is his inability to comprehend the Town's role in this process. The Town Board is the SEQR lead agency reviewing this project and is the only entity that could request a betterment from DOT. This betterment approach can only work if there are ready, willing and able project sponsors to provide funds upfront to be held in an escrow account to the Town which can then be paid to DOT so that the DOT is contractor as part of the State contract can undertake the work. This ability of the Town to participate in a State contract is unique. We can't do this. Private applicants can't do this, it has to go through the Town. So, contrary to Mr. Kontogiannis's allegations, the Town had a fiduciary interest in ensuring that all the private developers agreed to cover the amount required to be placed in escrow for the work to be undertaken by DOT's contractor. In short, the time had finally come where Mr. Kontogiannis could no longer avoid paying for the benefit to his property and now would have to contribute funds to the escrow account in order for work on the roundabout to proceed. So, at that point in time, that's why it was so critical that funds be made available. Absent provision of Mr. Kontogiannis's fair share of the cost of the roundabout, no betterment agreement between DOT and the Town could take place. Vista at this point had to determine, at great cost to itself, that it could no longer take the risk of having a master plan approved that was dependent upon Mr. Kontogiannis's property.

We don't benefit here. We're going to end up paying for the entire roundabout. It's on our property, it's in a more beneficial location for us, yes, but the more beneficial location does not in any way outweigh the cost of paying for the entire roundabout. So, it was in our interest to try to make this deal. It was just not commercially possible to do so.

There are other substantial environmental benefit of the relocated roundabout. The roundabout that was going to be on Mr. Kontogiannis's property would affect 2/10s of an acre of wetlands. The fact that it was going to affect 2/10s of an acre of wetland required us to go with DOT to the Army Corps of Engineers and get a modification to DOT's permit. DOT was understandably less than optimistic about the ability of them to do that... for the Army Corps of Engineers to do that in a timely fashion. With this new location of the roundabout, we have eliminated that 2/10s of an acre of wetland impact. There will be no need for DOT to seek the modification of its Army Corps permit and it should therefore help us, in fact, do the work in a timely fashion along with the work that's being done the Slingerlands Bypass.

In addition to that, the traffic impacts are essentially neutral in terms of the operation of the project and also the bypass. And, when I'm done here and I will be done soon, I promise, Jeff Pangburn is going to come up and just run through that briefly. So, we would submit that under these circumstances more than sufficient grounds exist for the Town Board to determine that the proposed minor changes to the Vista master plan – remember we are not changing square footage, we're not changing types of uses – all we are changing is access. We believe that it represents an improvement and that it will have no significant adverse environmental impacts. The Town Board, as SEQR lead agency, is charged with the responsibility of looking at any changes to a project and determine whether those changes represent significant adverse environmental impact such that a supplemental environmental impact statement would be required. In this case, we would submit that the changes in the project will not, in fact, have anything significant adverse environmental impact but instead will have positive and beneficial environmental impacts. We have also submitted an environmental assessment form to the Town so you can evaluate that in the context of your decision-making and as I said, we have submitted a traffic impact study, as well as, all of the master plan drawings that you had previously in the FEIS. They have been revised to show the new location.

Lastly, but not least, it is important to address Mr. Kontogiannis's allegations that Vista representatives acted inappropriately in their meetings and communications with him. Nothing could be further from the truth. Vista came to the negotiating table with every hope that Mr. Kontogiannis would be able to recognize the enormous benefit that were accruing to his property as a result of the placement of the roundabout and bringing utilities to his site. No one yelled at Mr. Kontogiannis, no one attempted to intimidate him, in fact, every effort was made to explain the proposed agreement to Mr. Kontogiannis with respect to the betterment agreement and to cost sharing for aspects of the project such as the roundabout and the utilities that would equally benefit Mr. Kontogiannis's property.

It is perhaps because Mr. Kontogiannis has little experience with a project's sponsor and developer that he ultimately decided not to participate in the agreement. Vista has not allowed this set back at the yard line, as it will, to impair its ability or enthusiasm for moving forward with the Tech Campus. It's our goal to propose a master plan that meets all the requirements of the MED. And, we look forward to continue to work with the Town and Town staff as the Town considers the benefits of the proposed master plan and the extraordinary efforts that Vista has made to avoid environmental impacts, meet the permitting requirements of the Town, State and Federal agencies and to propose a commercially viable project that will provide tax revenue and other economic benefits to the Town for the future.

Thank you very much.

SUPERVISOR CUNNINGHAM: Thank you very much.

TOWN ATTORNEY POTTER: Ms. Bakner, just one question. In BBL's negotiations with Mr. Kontogiannis, was BBL willing to give him a credit for the portions of the land that he was going to donate to the roundabout?

MS. BAKNER: Yes, I believe they were certainly willing to do that. The question

was the price and the question was also the value of the overall project and the improvements.

TOWN ATTORNEY POTTER: And, how did you determine the value credit that you were going to give him?

MS. BAKNER: I don't believe that there was anything close to a meeting of the minds on that point. And, certainly the starting point we would have used was the value that DOT had paid for the same property. Throughout this process all of the parties have worked very cooperatively with DOT. Anytime except for this last meeting, anytime we had a meeting with DOT, Mr. Kontogiannis was invited to that meeting. Every effort was made to keep him involved from the beginning to the end. And, I think for whatever reason in spite of our best efforts, it's just not possible to reach an agreement where Mr. Kontogiannis is going to be happy and we feel that we're not taken advantage of in terms of the expenditures that we've made for this project.

1.4 million dollars is a lot of money no matter who spends it and we certainly do not have any desire to have the taxpayers of the Town of Bethlehem... to charge them with any fees or anything associated with our project. This is a private project. The special assessment district is a way to recover costs from the people who ultimately occupy the property. It's not some sort of attempt to offload costs onto taxpayers. That's the furthest thing from our mind. Thank you.

MR. HANAFIN: Good evening. My name is Brian Hanafan. I'm the Vice President of Business Development Marketing for the Center for Economic Growth. Mike Tucker asked that I come here in his place. He could not make it due to a previous engagement. It's great to see everybody here. This feels like home that I am back.

SUPERVISOR CUNNINGHAM: Can you just speak into that microphone please so people can hear you.

MR. HANAFIN: I will make this quick, I know everybody has a long agenda. I just wanted to say from the Center for Economic Growth perspective, we feel that the project certainly represents regional significance. And, when I say that, I have the opportunity in my role to travel around the world and visit many areas of high tech importance and one of the things that when we interface with a lot of the executives and public officials... one of the things that their success hinged upon was their ability to provide a product in a timely fashion. And, when I say that I mean a product like the Vista Technology Center. So, from our perspective and I say regional significance, you know, ... certainly the region is on an upward tick and our ability to provide, you know, a quality product in a timely fashion is significant.

Additionally from the Town's perspective, I remember back when we started the whole comp plan process, there was a desire by the Town to balance the tax base and this project, itself, represents significance to the Town in doing that and achieving that objective. Other communities and towns around you here – Greene County, Saratoga, Schenectady – they are all doing that and they're advancing their tech parks in a timely fashion.

So, I've known Bill Herbert for some time and I think very highly of him and his ethics. And, I just wanted to say again from the Center for Economic Growth respectively fully endorse this project and hope that it moves forward. Thank you.

SUPERVISOR CUNNINGHAM: Thank you. Mr. Pangburn. Oh, excuse me, can you hold on just one second?

MR. PANGBURN: Yes, sir.

SUPERVISOR CUNNINGHAM: Our former Town Supervisor would like to speak.

MS. EGAN: I'm sorry, Jeff. Just don't want you to talk. So I'm going to try and... I'm going to stand like this so Jeff doesn't have to do it again.

I'm Terri Egan and I want to thank you for the opportunity to address you this evening. Unfortunately, I wasn't here at the last public meeting, however, I've had conversations with several people and had an opportunity to read some renditions as to what occurred at the last public hearing and I wanted to take this opportunity 1. to be here if you had any questions since I have a little bit of a historical prospective in regard to this and also to urge you to keep this project moving forward.

The entire time that I was here the Vista Technology Campus was a priority. It started before I got here with a lot of work done by the IDA then. Mr. Plummer, Mr. Tucker and actually George Leveille who started this whole thing and we were awarded that site just as I started to take office. We immediately started working with the proposed developer, Bill Herbert specifically. And, met... I can't even remember how many meetings we've had over those 3 and ½ years. I will say that Mr. Kontogiannis was a participant in a significant number of those meetings. From a historical perspective I want to just confirm... and not that I think it's probably a question in any of your minds but I want it to be heard... not at any time did I see Mr. Leveille or Mr. Herbert act in any inappropriate behavior with not only Mr. Kontogiannis but any other member of the public or public agency or State agency that we dealt with in the 3 and ½ years I was here. To hear allegations of that was disturbing at best.

In addition to that, I want to confirm the fact that where the roundabout is proposed this evening, is the site where BBL started with. And, it was... and Bill was too much of a gentleman to say... if it was some arm twisting from the Town at one point in time to get them to think about moving that roundabout at a significant financial disadvantage to them. They had already put a lot of money and planning into the original site but recognizing the Town's interest to try to manage the traffic flow and congestion in addition to what DOT's concerns were, they agreed to investigate other sites.

You heard this evening from Theresa, I think she did a great rendition, historically, as to how we got here. However, I also need to add that it seems like every time we were on the eve of an agreement between the adjoining landowners, some sort of problem would arise from Mr. Kontogiannis and the KKS group. It is a situation where, what I've heard of the events last week and the event that occurred through the months of June, I have to say I wasn't surprised. We've been in a position specifically in regard to the sewer study, I think is a very great example of what we got into, we were looking at capacities and things like that and when we looked for from both BBL and KKS was a proportionate sharing of the expenses with the Town to fund even that study. Off the top of my head, I think it was something minimal to the extent of about \$5,000 we were looking for from KKS. BBL was funding a significant portion of it with the Town recognizing our responsibility. To my knowledge, that money never came to the table that BBL together with the Town ended up splitting that whole bill.

It is an unfortunate situation I think there were... in the 3 and ½ years I was there... I think there was significant attempts to find and help find an agreement between these 2 adjoining landowners, however, despite the allegations that I heard just this evening myself in regard to either issues that can be resolved all we have to do is sit in the same room, I think that fact that we are sitting here 3 and ½ years after I started dealing with the situation and those issues not being resolved certainly should speak volumes to all of you in regard to whether or not it is a reasonable representation that anything can get worked out between these 2 adjoining landowners.

Coming back to the Town Board's role, and it certainly is not to tell you what it is, you all know it, you've been around for a while, you have great attorneys that can help lead you in that but certainly... you didn't pay me to say that either just so... but seriously, this project was something that was identified after a very arduous and long comp plan process as being one of the premier priorities of this Town.

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It... there is so many things that it resolves or helps to resolves and moves the community forward. Many of the needs it has to see it on the verge of possible... having a problem because of this dispute between these 2 landowners is very concerning to me. I think this is a situation where we have to remember at the Town Board, we are lead agent, it's our primary responsibility to do the evaluations and make decisions in regard to the entire Town, not just any particular property owner. In addition to that, it is a public betterment. That is one thing we fought... we had many discussions with DOT around and around about how this was going to be resolved and as a result of it being a public betterment or Town betterment, it's our responsibility to make the decisions that we think are necessary, you know, to move this project forward.

So, I just wanted to put that forward. I know from a historical perspective, you know, been here 3 and ½ years, most of you have been too but I did want to resolve nothing that... like I said, some of the allegations I saw flying around in the Spotlight were very disturbing to me and I just wanted from a personal note let you all know in my dealings with Bill Herbert and George Leveille at any of these meetings none of the actions that I read about ever occurred and secondly, just urge you, again, in your evaluation process to really look at this and think about the importance of moving this project forward. I know what the project is, we've been through it all. I've looked at the master plan that's in front of you now and I certainly would urge you all to consider it, approve it and get this moving forward so we can meet the DOT guidelines and deadlines that we need to do to keep this moving forward without, you know, the expenditure of unneeded funds.

So, thank you.

SUPERVISOR CUNNINGHAM: Thank you, Terri. Jeff, now you can speak.

MR. PANGBURN: A little gun shy now. Good evening, Supervisor Cunningham...

SUPERVISOR CUNNINGHAM: Hold on, I've got to...

MR. PANGBURN: As you... Jeff Pangburn with Creighton Manning Engineering. I will be brief this evening actually because the topic of access is actually very simple topic tonight. What simply has happened from an access standpoint from a traffic impact is the roundabout and the right in right out was simply shifted along the line of the bypass. There is no real change of access, still one single roundabout providing access to the main boulevard. Still the right in - right out access as shown on the revised master plan coming off the one side of the site plan. So, access is essentially the same.

We have provided an access modification sensitivity analysis – was submitted the Town via email today. I have an extra hard copy here I can enter into the record when I am done. And, it essentially shows that the change in location of those access points which is all it is – just a change of location, same amount of access that the site had before – is operationally neutral to the bypass and actually will improve transportation access on site. As Ms. Bakner mentioned before the main boulevard now will line up directly with that roundabout providing direct access in and out of the main site. So, it is... like we mentioned, actually an overall benefit for our location. We've been involved in the project for over 2 years. This is about the fourth time we've worked on a roundabout location. It's gone around and around, no pun intended, for a little while. So, we're here today, we're back where we started originally.

This location was presented to the Department of Transportation as was portrayed by Ms. Bakner. For an access management standpoint it was a benefit, an overall benefit at the time to see if we could come up to an agreement to share that access point. It hasn't worked out, we've since gone back to where we originally were. The access point as it is being proposed today can be built with only Vista property being necessary. Those lands would be donated that are necessary for the roundabout construction directly to the Department of Transportation. So, it is a very straightforward process. And, as Ms. Bakner mentioned, we did have a

meeting on June 20<sup>th</sup> with the Department of Transportation. The Acting Regional Director was there, the head of their traffic department design group, real estate groups were all there. We've had conversation with Delaney Construction. From what we've been told, this is very doable project if we keep it moving.

Mr. Kontogiannis indicated that it's water over the dam, we've missed the timing, that's completely false. Every indication we have directly from the Department of Transportation and the contractor, themselves, is there is still time to make this happen. So at that I will conclude unless there is any questions.

SUPERVISOR CUNNINGHAM: Any questions from the Board? Thanks, Jeff. Judi.

COMPTROLLER KEHOE: Judi Kehoe, Town Comptroller. I did want to state, since this is a public hearing officially for the record that the proposed issuance of the debt associated with the special district would not materially impact the Town's debt limit. The Town would have to issue at least \$115 million in non-exempt debt in order to reach our limit. We're at less than .5 percent of our debt limit currently. You are talking about an issuance of less than \$8 million on this. A majority of that would be not subject to that debt limit so there would be no material impact on the debt limit.

SUPERVISOR CUNNINGHAM: Thank you clarifying that, Judi, thank you. Are there additional comments for the public hearing? May I have a motion to close the public hearing?

The motion was made by Mr. Plummer and seconded by Mrs. Dawson to close the public hearing at 7:22 p.m. The motion was passed by the following vote:

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

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Town Clerk

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Supervisor Cunningham said the Town Board also received a packet with the revised development Master Plan from the Planning Board and he would like to make a motion to accept the recommendations from the Planning Board in the plan.

The motion was made by Mr. Messina and seconded by Mr. Plummer to accept the revised Development Master Plan recommendations from the Planning Board. The motion was passed by the following vote:

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

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The Supervisor said the next item was the acceptance of the petition for the Special Assessment District for water, sewer and road improvements. He said this is the BBL petition given to the Town asking the Town Board to consider creating a Special Assessment District for the Vista development.

The motion was made by Mr. Plummer and seconded by Mrs. Dawson to accept the petition from BBL requesting the creation of a Special Assessment District for the Vista development. The motion was passed by the following vote:

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

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The Supervisor said the next item was to set the public hearing of the Vista Special Assessment District. He said the motion is to accept the petition to extend Water District No. 1 as set forth in the petition and to set a public hearing to consider the petition for the Water Special Assessment District on July 25, 2007 at 6:15 p.m. The maximum amount proposed to be expended is \$1,940,400 and the average cost of the extension to each of the 2 property owners within the extension is estimated to be \$35,000 per year. Town Attorney Potter said the 2 property owners just for clarification are both controlled by Vista as he understands it. Councilman Plummer said this is being done for the road, water and sewer. Supervisor Cunningham said there are 3 motions. He said the first is for the water and setting the public hearing.

The motion was made by Mr. Messina and seconded by Mr. Plummer to accept the petition to extend Water District No. 1 as set forth in the petition and to set a public hearing for the Water Special Assessment District on July 25, 2007 at 6:15 p.m. The maximum amount proposed to be expended is \$1,940,400. The motion was passed by the following vote:

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

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Supervisor Cunningham said the second motion is for the Sewer District. He said the motion is to accept the petition for the construction of sewer laterals within the Sewer District extension number 14, area 1, as set forth in the petition and to set a public hearing to consider the petition on July 25, 2007 at 6:15 p.m. The maximum amount to be expended for the extension as stated in the petition is \$2,682,580.

The motion was made by Mr. Plummer and seconded by Mrs. Dawson to accept the petition for the construction of sewer laterals within Sewer District Extension Number 14, area 1, as set forth in the petition and to set a public hearing to consider the petition on July 25, 2007 at 6:15 p.m. The maximum amount to be expended for the improvements as stated in the petition is \$2,682,580. The motion was passed by the following vote:

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

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Supervisor Cunningham said the third motion would be for highway. He said the motion is to accept the petition for the construction of certain roads within the Town as set forth in the petition and to set a public hearing to consider the petition on July 25, 2007 at 6:15 p.m. The maximum amount to be expended as stated in the petition is \$4,147,800.

The motion was made by Mr. Messina and seconded by Mr. Plummer to accept the petition for the construction of certain roads within the Town as set forth in the petition and to set a public hearing to consider the petition on July 25, 2007 at 6:15 p.m. The maximum amount to be expended as stated in the petition is \$4,147,800.

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

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The next item was to accept the amended drawings for Vista MED for new location for access roundabout.

The motion was made by Mr. Plummer and seconded by Mrs. Dawson to accept the amended drawings for Vista MED for the new location of the access roundabout. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Kotary.

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The following item was an update on the Dinmore Road sewer pipe line project. Supervisor Cunningham said there is a new pipe being installed down at the sewer treatment plant and that construction has begun. Mr. Erik Deyoe, Town Engineer, said the Town Board declared an emergency and authorized the emergency construction down at the Dinmore Road adjacent to the waste water treatment plant replacing the existing and failing sewer pipe trunk. He said since the meeting, the Town awarded the construction management work to Clough Harbor Tech Services and through Clough Harbor Tech Services, awarded the general construction to Keller Construction. He said the slide show some recent pictures of construction activities.

Mr. Deyoe said to date, the contractor installed the insulation over the existing pipe to limit and control the thermal expansion of the pipe in hope to mitigate any near term failures in the pipeline. He said they have cleared from the pipe and stockpiled and stripped off the topsoil. He said the erosion and the sediment control measures have been installed so there is... are in place. He said just this week alone, they have hauled in, placed and compacted over 2600 cubic yards of material. Just for reference point, that's roughly 200 dump truck loads of material that's just since Monday.

Mr. Deyoe said they have chipped out and removed shale underneath the manhole number 1 and encountered some rock. He said stone bedding has been placed in for the new manhole. He said as far as schedule coming forward, they are waiting the delivery of 4 manholes – 2 of which will be delivered by the end of next week. The other 2 at the end of the week of the 12<sup>th</sup>. He said following that they will be installing the manholes the week of July 22<sup>nd</sup>. He said substantially completing the project which means the new pipeline will be active by August 17. He said the removal of the existing sewer pipe will be immediately following the substantial ... of the pipeline and all will be completed by mid-September.

Mr. Deyoe said this is where the project stands. He asked if there were any questions. Councilman Dawson asked if the Board will have to consider a separate project for the dismantling of the existing pipe. Supervisor Cunningham said no, it is part of the existing project. Mr. Deyoe said that was included in the emergency authorization.

Councilman Messina asked if there was anything that could be a ripple in this going forward. He said October is kind of a critical time to get this done. Mr. Deyoe said presumably with decent weather this project is in good shape. He said the contractors believe they are a week or two ahead of schedule at this point. He said they are moving pretty well. He said assuming we keep decent weather, no significant rains for a long period of time, they should be in good shape. He said he will keep the Board up-to-date.

Supervisor Cunningham said the new pipe will be functional in August. Mr. Deyoe said that was correct. The Supervisor said the rest of the project will be done by September including the removal of the pipe. He thanked Town Engineer Erik Deyoe.

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Supervisor Cunningham said he wished to move the second to the last item on the agenda. The item was the request for the Town Board to approve the Supervisor executing the lease between the Open Space Conservancy and Town of Bethlehem for the purpose of leasing the Colonial Acres Golf Course.

The motion was made by Mr. Plummer and seconded by Mrs. Dawson to approve the Supervisor executing the lease between the Open Space Conservancy and Town of Bethlehem for the purpose of leasing the Colonial Acres Golf Course.

Supervisor Cunningham asked if there were any comments. Councilman Plummer said he thought the details presented during the public comment period were sufficient. He said some people had questions and it was gone through at that time. Town Attorney Potter said that was okay. Councilman Plummer said the most important thing for the public is although there has been an agreement between the owners and the Open Space Institute, the Open Space Institute still has 2 tasks to accomplish. One is the survey and they have to complete an environmental assessment, according to Mr. Plummer. He said the environmental assessment has just been submitted to them. He said on the first reading it looks very positive. He said the survey they hope to have done within the next 2 weeks and if these 2 items are fine, then a closing will, in fact, be scheduled and the transaction will occur. He said they are hopeful that this will happen.

Councilman Plummer said this vote tonight is a lease that the Town will have with the Open Space Institute and the vote allows the Supervisor to sign the lease.

Councilman Messina had one comment and that was with lots of other work that goes on including the comprehensive planning activity, there has been an expressed interest in open space. He said he has not seen any more practical and direct way to preserve open space in this Town than he has seen on this golf course. He said he thinks there is something like 43 acres – 30 of it being a golf course – and he thinks the Board felt unless there is some creativity, some partnership that would have gone by way of most open land being developed. He said from that point of view, there are a couple other good things that this does. Supervisor Cunningham thanked Mr. Messina.

The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Kotary.

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The next item on the agenda was the presentation of the Town's new Online Assessment Roll System, a web-based property assessment inquiry system. Management Information Systems Director, Jeff Dammeyer, did a demonstration of the program and showed the many features of this program. He said there was a New York State Grant applied for and received in 2006-2007 Real Property Tax Administration Improvement Grant in the amount of \$12,000. He said the intent was to provide funds to municipalities to implement a comprehensive web page online assessment look-up tool to enable taxpayers both current and potential to gain access to parcel level data and sales information with greater ease and efficiency.

Mr. Dammeyer noted there is a new link on the Town's website called Online Services and on that page to the left there is interactive type services available. He mentioned that this is hosted by an outside company. He said there is contact information for the Assessor as well. He said there are PDF forms so a resident can do an informal review for the comparative analysis and noted there is a search capability also. He asked if there were any questions.

Councilman Dawson asked if there will be some publicity on this new service. Supervisor Cunningham noted this was started today noting there was a press release today and part of the publicity is this presentation. He said the Times Union also has something on their blog about it. Mr. Dammeyer noted there was part of the out grant for publicity, noting there was \$6,000. Supervisor Cunningham said this would be in the electronic newsletter and the Bethlehem Report. He said this will go a long way to help residents make sure their assessment is in line with where it should be.

Mr. Dammeyer noted there is also a computer available for public access in the Assessor's office that can access the system, as well as, the RPS website. He said residents can sign up to come and use the computer in the office. Supervisor Cunningham asked if the computer is handicapped accessible. Mr. Dammeyer said it is. Councilman Dawson asked if Mr. Dammeyer was available to give computer help. Mr. Dammeyer noted Mr. Leafer is available.

Supervisor Cunningham thanked Mr. Dammeyer and Assessor Leafer for doing a lot of hard work to get this up and running. He noted it looks great and will be a good asset to the Town.

Councilman Messina said he was glad Councilman Dawson asked about public information because as we get closer to tax season, both the public utility - the use they have of it - as well as, hopefully unloading some work load off the office. He said on the system itself, he asked if you can track how many hits go to that feature so we know it is being used a lot or not. Mr. Dammeyer said they track hits going to the website but they can also track how many are going to this as well. He noted he could have ORPS do that.

Supervisor Cunningham noted if anyone had additional questions, they can contact Mr. Leafer regarding assessments and Mr. Dammeyer regarding how the system works. He thanked both.

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Supervisor Cunningham noted he skipped over one item and would like to do that one now. The item was to approve the Town Board minutes of June 13, 2007.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to approve the Town Board minutes of June 13, 2007 as submitted. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Kotary.

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The following item was a request from Chief of Police, Louis Corsi, for approval of budget modification, to increase recovery revenue line item and increase the police 23-01 fleet purchases account line in the amount of \$7,875.00.

The motion was made by Mrs. Dawson and seconded by Mr. Messina to approve a budget modification, to increase recovery revenue line item and increase the police 23-01 fleet purchases account line in the amount of \$7,875.00 as requested by Louis Corsi, Chief of Police. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Kotary.

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The next item was a request from Louis Corsi, Chief of Police, to accept donation to DARE from Nancy Farr in the amount of \$10.00.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to accept a donation to DARE from Nancy Farr in the amount of \$10.00 as requested by Chief of Police, Louis Corsi. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Kotary.

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The next item was a request from Highway Superintendent, Gregg Sagendorph, for approval to go to bid for biodegradable paper bags. Could advertise July 5, 2007 and open bids on July 16, 2007 at 3:00 p.m.

The following resolution was offered by Mr. Mrs. Dawson and seconded by Mr. Messina:

WHEREAS, the Town desires to advertise for bids for the purchase of biodegradable paper bags, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 5th day of July, 2007 and that bids be received up to 3:00 p.m. on the 16th 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, Mrs. Dawson.

Noes: None.

Absent: Mr. Kotary.

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The following item was a request from Gregg Sagendorph, Highway Superintendent, for approval to dispose of vehicles at auction by Northway Auto Exchange, Inc., Clifton Park, NY.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to approve disposing of vehicles as listed in the Memorandum from Gregg Sagendorph, Highway Superintendent, dated June 19, 2007 at auction by Northway Auto Exchange, Inc., Clifton Park, New York. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Kotary.

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Supervisor Cunningham said the last item on the agenda was the acknowledgement of receipt of the Blessing Road Traffic Study, North Bethlehem.

The Supervisor asked for a motion based on the recommendation of the traffic study to direct the Town to discontinue efforts regarding the planning and construction of the previously proposed collector road, direct the Engineering Division to withdraw the permit application to the Army Corps of Engineers for wetland disturbance and authorize the Engineering Division to initiate the environmental review and design development of recommended intersection improvements at Blessing Road and Krumkill Road intersection.

The motion was made by Mrs. Dawson and seconded by Mr. Messina based on the recommendation of the traffic study that the Town discontinue efforts regarding the planning and construction of the previously proposed collector road; direct the Engineering Division to withdraw the permit application to the Army Corps of Engineers for wetland disturbance; and authorize the Engineering Division to initiate the environmental review and design development of recommended intersection improvements at Blessing Road and Krumkill Road intersection.

Supervisor Cunningham clarified for everyone that there was a road that was designed to cut off of Blessing Road and come out where the County is now putting a roundabout in at Schoolhouse Road. He said that road is now eliminated and allow Mr. Quadrini to complete the development of his land in that area.

The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Kotary.

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The Supervisor asked for a motion to adjourn to Executive Session to discuss personnel matters.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to approve adjourning to Executive Session to discuss personnel matters. The motion was passed by the following vote:

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

Noes: None.

Absent: Mr. Kotary.

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The Supervisor asked if there was any additional public comment.

Ms. Linda Jasinski asked Town Engineer Deyoe where the 200 loads of dirt were obtained for the Dinmore Road project. Town Engineer Deyoe said the material was supplied under the existing materials contracts with Carver Construction and came out of Halfmoon.

Ms. Jasinski said one other thing she noticed, the whole meeting motions have been asked for and asked for seconds and asked for those who are in favor and never asked for anyone who opposed. She said she understands that you are all going to approve anyway but it would be nice if you asked if anyone opposed. It is only a formality of the meeting. Supervisor Cunningham said he will do that and the reason he hasn't was that he heard everyone say approved.

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Mr. Robert Jasinski asked Mr. Deyoe if there was a building taken down on the Dinmore project. Town Engineer Deyoe said there was not, there were no buildings at all. Mr. Jasinski asked if the Town has accepted the removal of a building recently down at the Town landfill. Mr. Deyoe said Dinmore Road is not the landfill. Mr. Jasinski said he understands that but he sees trucks coming down with building material from a crushed building and everything and he wondered where it was from. Supervisor Cunningham said he thinks that is building material from the Thruway. He said he knows there was an accident in Selkirk and there is building material... road material coming off the Thruway. Mr. Jasinski said maybe that is what it is but he thought it was house construction.

Mr. Jasinski also asked if anything has been put forward in placement of Oliver Holmes besides George Leveille for temporary. Supervisor Cunningham said they have not done anything on that. He said they have not sat down to review the applications yet. He said there are several resumes that have been sent in but he has not worked with Human Resource Department to review those yet. Mr. Jasinski asked if this was publicly advertised. Supervisor Cunningham said the position has been advertised in journals, advertised in the Times Union and it is also on the website. Mr. Jasinski thanked the Board.

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The motion was made by Mr. Messina and seconded by Mrs. Dawson to adjourn the regular Town Board meeting at 7:50 p.m. The motion was carried by the following vote:

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

Noes: None.

Absent: Mr. Kotary.

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Town Clerk

EXECUTIVE SESSION

There was no formal action taken at the Executive Session.