

TOWN BOARD  
MARCH 10, 2004

A public hearing 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 5:30 p.m.

PRESENT: Theresa Egan, Supervisor  
Daniel Plummer, Councilman  
George Lenhardt, Councilman  
Tim Gordon, Councilman  
Kathleen A. Newkirk, Town Clerk  
James T. Potter, Esq., Town Attorney

ABSENT: Thomas Marcelle, Councilman

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SUPERVISOR EGAN: Good evening everyone. Everyone stand and join us in the pledge of allegiance, please.

The first thing on the agenda this evening is a public hearing. Ask our Clerk to read the call of the hearing.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on March 10, 2004 at 5:30 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider making an application to the Small Cities Community Development Block Grant program for the South Albany Water/Sewer District. The application will be to secure financial assistance for necessary water and sewer improvements to the district.

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. 183. Advanced notice is requested.

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

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State of New York)  
County of Albany )

LIZA CLINE of the Town of Bethlehem, being duly sworn, says that she is the RECEPTIONIST for THE SPOTLIGHT, a weekly newspaper published in the Town of Bethlehem, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said THE SPOTLIGHT ONCE A WEEK FOR 1 WEEK consecutively, commencing on the 25<sup>th</sup> day of February 2004.

/s/ Liza Cline

Sworn to before me this 2<sup>nd</sup> day of March 2004.

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

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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 February 25, 2004, 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  
10<sup>th</sup> day of March 2004.

/s/ Julie S. McNeil  
Notary Public

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Town Clerk Newkirk also acknowledged that the Notice of Public Hearing was published in The Ravena News Herald.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.  
Noes: None.  
Absent: Mr. Marcelle.

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SUPERVISOR EGAN: Mr. Leveille.

MR. LEVEILLE: Supervisor Egan we have Keith ... and Rod Parker from Vollmer Associates consultants who .... Down on this and will provide a brief overview of the project.

SUPERVISOR EGAN: Thank you.

??? Good evening the South Albany Water and Sewer District is located approximately a half of mile south of the...

MR. JASINSKI: Can we have a mike so we can hear?

COUNCILMAN LENHARDT: The silver one, you can take it out.

MR. MENIA: The South Albany Water and Sewer District is located approximately one half mile south of the Selkirk rail yards off of Route 53. There are currently 19 homes constructed...

TOWN CLERK NEWKIRK: You have to hold the microphone up closer, please, they can't hear you yet. That's it put it right up.

MR. MENIA: There's currently 19 homes in the district and they are served by public well and the well is located on the eastern most portion of the subdivision. There is also a treatment building located on the west side of the subdivision and a distribution system that runs behind the homes. The Sewer District is a community septic system and that is located approximately right here in the center of the subdivision. And, that is where we are having problems right now.

The subdivision was constructed in 1920 so you got approximately 80 years of infrastructure life out of the water and sewer system. It's aging and the sewer system is currently in violation of Speedes discharge permit. The State mandated

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... system. On 3 occasions the Town has had to discharge raw sewage into a nearby stream and... The Town intended to fix these leaks. Over the past year they have done some investigation of these fine leaks by smoke testing and also looking at places where the ground has taken some of the ... in and we've suspended areas along the route where the ground water, storm water runs into the pipe.

In the summer, they were investigating how to fix that. There are 2 options that we could do. One is the complete rehabilitation of the system and would cost approximately \$160,000 to lay the new pipes parallel to the existing homes. The less costly approach but not a good approach is to do a gravity sealing regiment and that basically means sealing the cracks from the inside of the pipe with a temporary fix.

In investigating ways in which to fund this project, we did an income survey in the fall and we got 100 percent response rate which is very good. It helps us with funding programs. We also determined that a number of houses up there and their income could not afford to pay for the infrastructure improvements on their own. So, we had to look at some opportunities for funds. There are 2 programs which we believe the Town would do pretty well and possibly get full funding from them. The first one is a Clean Water State Development Fund. It is a New York State program in which the sewer district could receive potentially zero percent interest loan and we are currently in process of making that application. We started the first part and that was a hardship application and that was done at the beginning of the year.

For the Community Development Block Grant that second program. This program can fund both water and sewer programs and that's why we are here tonight. We got 2 mandated public hearings.

The water improvements we would like to do as part of that grant would be rehabilitation of the water main and installation of new mains located approximately 10 feet to the south of the existing main. In that project we would install the main and also new service laterals right up to and including the basements of the house. We suspect that there are some leaks there between the main and the houses. So, full rehabilitation of that system would be ideal. The cost of that service probably \$150,000 and is currently unbudgeted. So, we are looking for some funding opportunities for that.

The sewer improvements, like I said, we were looking to do a total rehabilitation as an ideal project. That would include new sewer main and new laterals up to and including the penetration into the basements. Also included in that would be the tie in from the existing sewer main where it meets the house and for a new sanitary lateral. By making the new sanitary system available, we would take the existing sanitary system and make that into a storm water collection system. We suspect that a lot of houses out there are hooked up with their sump pumps directly to the sanitary system and that is a violation of the health standard. Cost of that project is approximately \$160,000 and therefore, our application to Small Cities is for \$310,000.

The applications for that program are do in the 5<sup>th</sup> and we will have the second public hearing in time to meet that deadline. If we were to get full funding for this program, the next step would be to complete the designs, go out to bid and go to construction. We anticipate through the different review processes that the earliest we could go out to construction is fall to the spring of the next year.

If anyone has any questions, please ask.

SUPERVISOR EGAN: Board Members, any questions?

COUNCILMAN GORDON: If we receive partial... a partial grant...

MR. MENIA: Yes.

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COUNCILMAN GORDON: ...what alternative does that leave us?

MR. MENIA: If we get a partial grant, the first order of priority is to fix the sanitary problems. We are mandated by the Health Department and DEC to mitigate those and any funds that become available through the Clean Water or the Community Development Block grant would have to be applied to that first.

SUPERVISOR EGAN: Any other questions? Thank you. Can I have a motion to close the public hearing?

The motion was made by Mr. Gordon and seconded by Mr. Lenhardt to close the public hearing at 5:45 p.m. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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Town Clerk

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The following item was a presentation by Bethlehem Patriot Group. There was a lengthy discussion with the group regarding the proposed resolution from Councilman Marcelle and a proposed resolution by the group. Residents on both sides of the issue spoke. Due to Councilman Marcelle's absence, the Board chose to table any action until the next meeting.

The motion was made by Mr. Plummer and seconded by Ms. Egan to table any action on the resolution pertaining to the Patriot Act. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon.

Noes: Mr. Lenhardt.

Absent: Mr. Marcelle.

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The next item was to approve the Town Board minutes of February 11 and February 25, 2004.

The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to approve the Town Board minutes of February 11, 2004 as submitted. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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The motion was made by Mr. Gordon and seconded by Mr. Plummer to approve the Town Board minutes of February 25, 2004 as submitted. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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The next item was a request from Engineering Division, Terrence Ritz, for approval to go to bid for Iron Castings, and Precast Reinforced Concrete Manhole

Sections. Could advertise March 17, 2004 and open bids on March 31, 2004 at 3:00 and 3:30 p.m. respectively.

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

WHEREAS, the Town desires to advertise for bids for the Iron Castings (highway frames, grates and covers) and Precast Reinforced Concrete Manhole Sections, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 17th day of March, 2004 and that bids be received up to 3:00 and 3:30 p.m. respectively on the 31st day of March, 2004 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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The following item was a request from Engineering Division, Terrence Ritz, for approval to go to bid for Metal and Plastic Pipe. Could advertise on March 17, 2004 and open bids on March 31, 2004 at 3:10 and 3:20 p.m. respectively.

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

WHEREAS, the Town desires to advertise for bids for the purchase Metal and Plastic Pipe, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 17th day of March, 2004 and that bids be received up to 3:10 and 3:25 p.m. respectively on the 31<sup>st</sup> day of March, 2004 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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The following item was a request from First Columbia for amendment of Building Project Approval regarding construction start date and completion date for Planned Commercial District No. 6, New Scotland Road, Slingerlands.

Supervisor Egan said a Memorandum from the Planning Department, along with the request from First Columbia, was received by each Board Member. The request is to extend the start date until April 30, 2005. She noted this has to do with the fact that because the project is outside the municipal Water District and current water restrictions, First Columbia is trying to get Albany County Health approval and this is creating a problem. She said this extension is requested due to the circumstances.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve an Amendment to Building Project Approval number 34 for First Columbia PCD No. 6, New Scotland Road, Slingerlands extending construction start date to April 30, 2005. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

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Absent: Mr. Marcelle.

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The next item was to authorize Supervisor Egan to sign the Advanced Life Support Services agreement with County of Albany for the year 2004. Supervisor Egan said this is an agreement that has been entered into at least since 2001 whereby the County provides advanced life and paramedic support services to the Delmar Fire District, Elsmere Fire District, Slingerlands Fire District, Selkirk Fire District and Elmwood Park Fire District. She said this is the current contract and there is an annual fee of \$335,248.37.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the Supervisor signing the 2004 Advanced Life Support Services agreement with Albany County. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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Councilman Gordon commented that the Sheriff's Department does run an excellent program for paramedics in the County. Supervisor Egan said she understands that there has not been a problem with any covering or anything else and they have been very responsive.

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The following item was a request from Kathleen Newkirk, Town Clerk, for consideration of adoption of Resolution pertaining to Local Government Records Management Improvement Fund supporting elimination of sunset date for grant program. Town Clerk noted this program has provided the Town's records management program with over \$180,000 in grant funding. She noted there was a 5 year sunset date on the Local Government Records Management Improvement Fund and when the date approaches all of the municipalities and people who have benefited from this program are contacted to support the extension of the sunset. In this case, Ms. Newkirk noted, the State Archives have requested that we support a resolution to eliminate the date and therefore the program would go on in perpetuity.

The following resolution was presented for adoption:

**Resolution of Support  
for the Elimination of the Sunset Provision of the  
Local Government Records Management Improvement Fund  
(LGRMIF)**

Whereas, the Local Government Records Management Improvement Fund was created in 1989 to provide technical assistance and grants to establish, improve or enhance records management programs in New York's more than 4300 local governments, and

Whereas, a sunset date for the LGRMIF was established in the original legislation to permit its operation as a five-year experiment, and

Whereas, the New York State Legislature in 1995 has twice extended the sunset date, most recently to December 31, 2005, and

Whereas, the LGRMIF has effectively supported essential advisory services and 6,300 grants totaling over \$113 million to improve the management of records for over half of all NYS local governments, and

Whereas, the LGRMIF and the programs it supports continue to operate at a high standard of excellence and provide direct and significant benefit to local governments at no cost to the taxpayers, and

Whereas, the Town of Bethlehem has benefited from technical assistance, training, publications and 11 grants totaling over \$180,000 supported by the LGRMIF, and

Whereas, the LGRMIF continues to be critically important in the fulfillment of the many records and information related responsibilities of local government name, therefore

Be it resolved that the Town of Bethlehem supports the elimination of said sunset provision of December 31, 2005 in order to make the LGRMIF permanent.

The foregoing resolution was presented for adoption by Mr. Lenhardt, seconded by Mr. Plummer and passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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The next item was to acknowledge receipt of the Final Plat Approval for the Barber Subdivision for information purposes from the Planning Board. Supervisor Egan thanked the Planning Department.

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The following item was a presentation of the proposed building moratorium language. Supervisor Egan said in regard to the moratorium a copy of the language was left in the rear of the auditorium for those wishing to have a copy for review. She said this is the draft proposal, noting there will be a special meeting date set to consider the language. She further noted normally it would be done at the next Board meeting but she will be out-of-town and therefore it will be some time before the end of March.

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Supervisor Egan asked if anyone wished to address the Board. There were none.

The Supervisor asked for a motion to meet in Executive Session to discuss settlement of tertiary litigation.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve meeting in Executive Session to discuss settlement of tertiary litigation. . The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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Mr. Robert Jasinski said this was the first Town Board meeting since January 1<sup>st</sup> that he has been able to attend, noting he has been out-of-town himself. He said the 5:30 meeting time is an early time and he is against this time. He said there are a number of reasons for this stand. He asked how the time was determined. Supervisor Egan noted it was done during the Organizational Meeting. Mr. Jasinski further asked if the entire Board agreed on it. Supervisor Egan said she thought Mr. Gordon may have been the only person who opposed it. Supervisor Egan thanked Mr. Jasinski for his comments.

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The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to resume the regular Town Board meeting. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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## EXECUTIVE SESSION

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Supervisor Egan reported that coming out of Executive Session, it was a unanimous vote to accept the proposed settlement on the Consala, et. al. versus Bethlehem litigation to reduce the assessment of the subject property which is basically the Ames Plaza at Route 9W and Feura Bush Road, Glenmont to \$6.5 million.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to accept the proposed settlement on the Consala, et.al. versus Bethlehem litigation to reduce the assessment of the subject property which is basically the Ames Plaza at Route 9W and Feura Bush Road, Glenmont, NY to \$6.5 million. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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Supervisor Egan asked for a motion approving the setting of a special meeting of the Town Board to conduct a public hearing for consideration of acceptance of the moratorium for March 31, 2004 at 5:30 p.m.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to set a Special Meeting of the Town Board to conduct a public hearing for consideration of acceptance of the moratorium for March 31, 2004 at 5:30 p.m. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to adjourn the regular Town Board meeting at 6:30 p.m. The motion was carried by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Gordon.

Noes: None.

Absent: Mr. Marcelle.

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Town Clerk