

TOWN BOARD
MARCH 22, 2006

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 5:30 p.m.

PRESENT: Theresa Egan, Supervisor
Daniel Plummer, Councilman
Tim Gordon, Councilman
Samuel Messina, Councilman
Kyle Kotary, Councilman
Kathleen A. Newkirk, Town Clerk
James T. Potter, Esq., Town Attorney

- - -

Supervisor Egan welcomed everyone and invited them to join in the pledge of allegiance. She said there have been some issues regarding the audio portions of the meetings and the Library is well aware of it. She said they have been working on it and they thought they had it worked out but the fire in Cohoes has wrecked havoc with Time Warner.

The Supervisor said the first item was for public comment, asking if anyone wished to speak.

Mrs. Marie Capone asked the Town Attorney if there should be a referendum for the VISTA Technology. Town Attorney Potter said there will be a public hearing but not a referendum. Mrs. Capone thanked Mr. Potter.

- - -

Mr. Robert Jasinski had a couple questions. He asked about the portable toilet bid and if they were adhering to the bid specs. Supervisor Egan noted this would be addressed when they reached the item.

Mr. Jasinski asked if the Town docks are going out pretty soon. Mrs. Lanahan said the docks are back and they are waiting for concrete work to be done in the river. Mr. Jasinski thanked Mrs. Lanahan.

- - -

Supervisor Egan asked if there were any other comments on an agenda item. Mr. Howard Shafer said he was representing the Ravena-Coeymans-Selkirk School District and that he sent a copy of the position of RCS on the property line adjustment for 76 Crescent Creek Way and read the letter. (Letter on file in Town Clerk's office) He said if the Town of Bethlehem does allow the property line adjustment there are 5 parties that are affected by it. He urged the Town Board to support the position of the Planning Board that a property line adjustment not take place. Mr. Brian Kriss the Business Administrator for the school district brought a letter signed by the Superintendent taking the same position. Supervisor Egan thanked Mr. Kriss.

- - -

The Supervisor asked if anyone else had any other comments on agenda items. There were none.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to close the public comment period. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

- - -

Supervisor Egan said the first item was to approve the Town Board minutes of February 22, 2006.

The motion was made Mr. Plummer and seconded by Mr. Kotary to approve the Town Board minutes of February 22, 2006 as submitted. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The next item was a follow-up from the last meeting. The Supervisor said the Board approved the Carriage Hill Subdivision water line extension and there were some questions regarding placement of the line. She said the Town Engineer, Erik Deyoe, provided everyone with a follow-up and a map. She noted Mr. Deyoe was in attendance if anyone had any questions.

Councilman Kotary said he did not have any questions, he just wished to thanked Mr. Deyoe for taking the time to look into the matter. He said he was more than satisfied with the answer given in the Memorandum.

Councilman Plummer asked Town Engineer Deyoe if he got a chance to talk to Mr. Geurtze so he understood the reason for the location of the line. He said if not, he would appreciate his speaking with Mr. Geurtze. Town Engineer Deyoe said he did not but he would find his phone number and give him a call.

Supervisor Egan thanked Town Engineer Deyoe.

The following item was a request from Administrator, Nan Lanahan, Parks and Recreation Department, for authorization of Supervisor to sign Clarksville Playground Agreement.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to authorize the Supervisor to sign the Clarksville Playground Agreement as requested by Nan Lanahan, Administrator, Parks and Recreation Department. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The next item was a request from Nan Lanahan, Administrator, Parks and Recreation Departemt, for approval of award of bid for Portable Toilet Rentals to the low bidder, Portable Restroom Rentals, LLC, Catskill, NY.

The motion was made by Mr. Plummer and seconded by Mr. Messina to approve the award of bid for Portable Toilet Rentals to the low bidder, Portable Restroom Rentals, LLC, Catskill, NY as requested by Nan Lanahan, Administrator, Parks and Recreation Department. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

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

The motion was made by Mr. Gordon and seconded by Mr. Plummer to approve the appointment of seasonal personnel as listed in the Memorandum dated March 22, 2006 at the titles and salaries indicated, on file in the Town Clerk's office and requested by Nan Lanahan, Administrator, Parks and Recreation Department. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The following item was a request from Commissioner of Public Works, Oliver Holmes, for approval of award of bid for Standby Generator to Walter S. Pratt & Sons, Inc., Rensselaer, NY.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the award of bid for Standby Generator to Walter S. Pratt & Sons, Inc., Rensselaer, NY as requested by Oliver Holmes, Commissioner of Public Works. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The next item was a request from Town Engineer, Erik Deyoe, for approval of bond reduction for Milltowne Plaza.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the bond reduction for Milltowne Plaza for work being done at the subdivision. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The following item was a request from Gregg Sagendorph, Highway Superintendent, for approval to purchase two (2) dump trucks with plow equipment and one (1) front end loader with reversible snowplow from State Contract.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the purchase of two (2) dump trucks with plow equipment and one (1) front end loader with reversible snowplow from State Contract as requested by Gregg Sagendorph, Highway Superintendent. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The next item was a request from Highway Superintendent, Gregg Sagendorph, for approval of award of bid for two (2) dump body sanders from Arrowhead Equipment, Queensbury, NY.

The motion was made by Mr. Gordon and seconded by Mr. Messina to approve the award of bid for two (2) dump body sanders from Arrowhead Equipment, Queensbury, NY as requested by Highway Superintendent, Gregg Sagendorph. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The following item was a recommendation for approval from the Planning Board for Amendment No. 4 to BPA 26, Beverwyck, Phase 4. Supervisor Egan noted there was an outline from the Deputy Town Planner for this item. Ms.

Saatman said there is an item on the first page where the date must be inserted for the Albany County Planning Board's recommendation which has been received.

The motion was made by Mr. Messina and seconded by Mr. Gordon to approve the issuance of Amendment No. 4 to BPA No. 26, Beverwyck as recommended by the Town Planning Board. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The following item was a request from Supervisor Egan to consider approval of the contract with Albany County Sheriff for Advanced Life Support Program.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the Supervisor signing the contract with the Albany County Sheriff for the Advanced Life Support Program. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The next item was a request from Deputy Director of Economic Development and Planning to consider lot line adjustment for 76-78 Crescent Creek Way. Councilman Plummer said in response to the letter from Ravena-Coeymans-Selkirk Central School District that the last time this was before the Board, he thought this was a very equitable way of handling this situation. He said he did not view this as setting a precedent and certainly there is a lot of activity going on in the Ravena-Coeymans-Selkirk Central School District that the town is advocating as far as growth and they are collectively trying to do what they can to bring in commercial business. He said he views this as an isolated incident and a fair approach. Councilman Messina said he was at the Planning Board meeting, drove by the location and felt this is not a problem but the end result of good will of the landowners.

Supervisor Egan thanked the Planning Board indicating it was a very good discussion. She said there were people who spoke about this and a lot of consideration went into this.

The motion was made by Mr. Messina and seconded by Mr. Kotary to declare the requested lot line adjustment a Type II, SEQR determination. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

- - -

The motion was made by Mr. Messina and seconded by Mr. Plummer to approve the lot line adjustment for 76-68 Crescent Creek Way, Selkirk as requested by Deputy Director, Michael Morelli. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The following item was a request from Director of Economic Development and Planning, George Leveille, to consider a resolution of support and concurrence

with Albany County regarding the Empire Zone. Supervisor Egan noted the voluminous paperwork is due to what is being approved. She said it is to support and concur the County's efforts in regard to the Empire Zone program.

The motion was made by Mr. Gordon and seconded by Mr. Messina to approve the following resolution:

RESOLUTION NO. 16

**TOWN OF BETHLEHEM
RESOLUTION OF SUPPORT AND CONCURRENCE
WITH THE ALBANY COUNTY EMPIRE ZONE**

Local Law No. 2 for 2006

WHEREAS, New York State has created the Economic Development Zone program to encourage industrial and commercial development in selected municipalities across the State, and

WHEREAS, Albany County, as an eligible municipality, received original designation of an Economic Development Zone made up of sub-zones including portions of the Town of Guilderland and the City of Watervliet, and

WHEREAS, New York State has amended the Zones program to increase benefits and allow additional Empire Zone areas, and

WHEREAS, the Albany County Legislature has passed Local Law No. 2 for 2006 authorizing the preparation and submission of an application for designation of an amended State Empire Zone in Albany County and amending Local Law No. 7 for 1997, as amended by Local Laws No. 2 for 1999, No. 5 for 2000, No. 2 for 2001, No. 6 for 2001, No. 3 for 2003, an No. 6 for 2005, and

WHEREAS, the Town of Bethlehem is committed to the development of new business within the proposed Empire Zone, and

WHEREAS, the Town of Bethlehem wishes to support and concur with the Empire Zone application, and

NOW, THEREFORE, be it resolved that the Town Board of the Town of Bethlehem, in its capacity as governing body of the Town of Bethlehem, does hereby support and concur with the Albany County Local Law No. 2 for 2006

Resolution was adopted on March 22, 2006

/s/ Theresa Egan
Theresa Egan
Supervisor, Town of Bethlehem

/s/Kathleen Newkirk
Kathleen Newkirk
Town Clerk, Town of Bethlehem

The resolution was adopted by the following vote:

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

Noes: None.

Absent: None.

The next item was a request from Judith Kehoe, Comptroller, to consider policy if personal data is compromised. Supervisor Egan said this has been a hot issue and discussed at the Association of Towns and the Government Finance Officers.

The following resolution was presented for adoption:

Resolution No. 17

Information and Security Breach Notification Policy

WHEREAS the New York State Legislature enacted in 2005 the Information and Security Breach Notification Act to require state agencies and corporations who conduct business in New York State to promptly notify New York residents and non-residents when a person's personal or financial information has been believed to be compromised; and

WHEREAS the statute requires a local policy to be in place by April 6, 2006; and

WHEREAS the Town Board of the Town of Bethlehem desires to adopt an Information and Security Breach Notification Policy to comply with the Act, now therefore be it

RESOLVED that the Town Board of the Town of Bethlehem hereby adopts the following Information and Security Breach Notification Policy

Town of Bethlehem Information and Security Breach Notification Policy

- A. This policy is consistent with the State Technology Law, section 208 as added by Chapters 442 and 491 of the laws of 2005. This policy requires notification to impacted New York residents and non-residents. New York State and the Town of Bethlehem values the protection of *private information* of individuals. The *Town of Bethlehem* (“*Town*”) is required to notify an individual when there has been or is reasonably believed to have been a compromise of the individual’s *private information* in compliance with the Information Security Breach and Notification Act and this policy.
- B. The *Town*, after consulting with the Town’s Director of MIS and the Office of Cyber Security and Critical Infrastructure Coordination (“CSCIC”) to determine the scope of the breach and restoration measures, shall notify an individual when it has been determined that there has been, or is reasonably believed to have been a compromise of *private information* through unauthorized disclosure.
- C. A compromise of *private information* shall mean the unauthorized acquisition of unencrypted computerized *data* with *private information*.
- D. If encrypted *data* is compromised along with the corresponding encryption key, the *data* shall be considered unencrypted and thus fall under the notification requirements.
- E. Notification may be delayed if a law enforcement agency determines that the notification impedes a criminal investigation. In such case, notification will be delayed only as long as needed to determine that notification no longer compromises any investigation.
- F. The *Town* will notify the affected individual. Such notice shall be directly provided to the affected persons by one of the following methods:
- written notice;
 - electronic notice, provided that the person to whom notice is required has expressly consented to receiving said notice in electronic form and a log of each such notification is kept by the *Town* who notifies affected persons in such form;
 - telephone notification provided that a log of each such notification is kept by the *Town* who notifies affected persons; or
 - Substitute notice, if the *Town* demonstrates to the state attorney general that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the *Town* does not have sufficient contact information. Substitute notice shall consist of all of the following:
 - e-mail notice when the *Town* has an e-mail address for the subject persons;
 - conspicuous posting of the notice on the *Town*’s web site page, if the *Town* maintains one; and
 - notification to major statewide media.
- G. The *Town* shall notify, CSCIC as to the timing, content and distribution of the notices and approximate number of affected persons.
- H. The *Town* shall notify the Attorney General and the Consumer Protection Board, whenever notification to a New York resident is necessary, as to the timing, content and distribution of the notices and approximate number of affected persons.
- I. Regardless of the method by which notice is provided, such notice shall include contact *information* for the *Town* making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of

which of the elements of *personal information* and *private information* were, or are reasonably believed to have been, so acquired.

- J. This Policy also applies to *information* maintained on behalf of the *Town* by a *third party*.
- K. When more than five thousand New York residents are to be notified at one time, then the *Town* shall notify the *consumer reporting agencies* as to the timing, content and distribution of the notices and the approximate number of affected individuals. This notice, however, will be made without delaying notice to the individuals.

The foregoing resolution was presented for by Mr. Gordon, seconded by Mr. Kotary and passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The following item was a formal recognition by the Board for Nomination for Freedom Award. Supervisor Egan said Scott Anson, Delmar, NY nominated the Town and the award publicly recognizes American employers who provide exceptional support to their employees who voluntarily serve the nation in the National Guard and Reserve. She wanted to officially thank Mr. Anson for the nomination and let the Board know of this nomination. The Supervisor said the Town should be very proud of this and will provide continued support for the staff. She said we have about 4 active employees who are involved in some way.

The Supervisor noted some informational items:

1. Acknowledgment of acceptance of retirement of Detective Sergeant John Cox, effective March 23, 2006. She said he has served since 1974 and worked as a Patrol Officer and since 1992 as Detective in the Special Services Division. She said he was promoted to Detective Supervisor on January 25, 1992 and Detective Sergeant on June 20, 2005. She said John will be difficult to replace. Supervisor Egan noted John is still in the hospital and noted she will extend the Town's thanks for his service.
2. In regard to the deer situation in Town, Supervisor Egan said she provided correspondence from the Department of Environmental Conservation. She said she has a citizen's guide to the management of whitetail deer in urban and suburban New York if anyone was interested in seeing it. She said they will continue to work with DEC in regard to this issue.
3. Bethlehem Library sent a notice that the Library is participating in the NYS Veteran's Oral History Project established by Governor Pataki in 2000 and operated by the Veteran's Research Center of the NYS Military Museum in Saratoga. She said they are soliciting participants from the community to share memories of their service in World War II, Korean War or wartime defense industry. She said she has additional information that will be posted on the community board.
4. Correspondence with pictures was received from Shirley Seyler in regard to the Adams Street area. The Supervisor noted it has been forwarded on to Planning and Building Departments. She said it is something they have been working with over the last several months.
5. In regard to the Code of the Town of Bethlehem, the code book will be updated following the update of the zoning and subdivision sections. She said the timetable of having the new amendments adopted is August. The Board agreed that this would be the appropriate way to handle the Code of the Town of Bethlehem.
6. Regarding the revaluation, the Supervisor said there are between 1050 and 1100 informal hearings scheduled or have occurred. She exhibited 2 maps showing where the assessment changes happened in color and indicated the assessed valuation on one. She said they also estimated the tax increase occurs somewhere around 74 percent increase value. She said on the second map, the white area indicates the area where there is no tax impact.

She said this shows where it falls and noted these are draft for discussion purposes only. She said they think they are right and noted if anyone has any questions, just ask.

- - -

6:00 P.M. Scoping Session for Vista Technology Campus, Slingerlands.
Supervisor Egan noted the scoping session would not be done.

Information was given regarding BBL and Saratoga Associates regarding their involvement with the VISTA Technology Campus. Comments were received and recorded by a court stenographer.

It was explained that the first thing done was the Town Board declared Lead Agency. Information was distributed to various agencies for coordination in regard to this project. The Town Board also indicated this would be a positive declaration and then a decision was made to have a public scoping process. Following this there was a draft scoping document drawn up for this project. The Town Board then put the document out for public comment. This was one of the opportunities to provide comments on the scoping document. Written comments will be received up until the 27th of March. The notice was placed in the Spotlight and the document is available at the Town for review. Comments can be made without having viewed the document as well.

Following, the scoping document is revised to address the concerns expressed, a new scoping document will be prepared which will be pretty much an outline of the draft of the environmental impact statement and submitted to the Town Board. If the Town Board accepts the document, it will be approved and from that point the study is prepared and the draft Environmental Impact Statement completed.

Following the draft Environmental Impact Statement preparation and the finding of it being complete, there will be another hearing at which the public has an opportunity to speak on the contents of the statement. This is not the last opportunity to weigh in on this project. After the public comments have been obtained on the draft EIS then a Final EIS is prepared responding to everyone's comments. There may be changes to address comments as well.

At the end of the process, the Town will issue a Findings Statement with conditions for the approval of the project or it can deny the project. The Town Board looks at the entire project and the environmental impact and decides what should occur in the Town.

Following was a presentation regarding the issues of the scoping document and an overview of the project. Mention was made that there was a list of all the items that needed to be addressed in the statement.

Supervisor Egan noted this was to obtain public comment on the scoping document. Concerns were raised regarding the traffic that will be generated by this project and that it being carefully looked at; and environmental concerns plus the fact of raising commercial development in the Blue Cross/Blue Shield building on New Scotland Road. The Supervisor closed the scoping session and noted written comments will be accepted until March 27, 2006. All comments should be addressed to Town Planner, Jeff Lipnicky, 445 Delaware Avenue, Delmar, NY 12054.

Supervisor Egan asked if there were any public comment on any other items. Mrs. Marie Capone mentioned a resident, Liz Mooney, who is a nurse and a boxer. She noted ABC came and interviewed her for television. She said she could not believe it.

- - -

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

The motion was made by Mr. Kotary and seconded by Mr. Plummer to approve adjourning to Executive Session to discuss personnel matters following the close of the meeting. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

The motion was made by Mr. Gordon and seconded by Mr. Kotary to adjourn the regular Town Board meeting at 6:25 p.m. The motion was carried by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.
Noes: None.
Absent: None.

Town Clerk

EXECUTIVE SESSION

There was no formal action taken at the Executive Session.