

TOWN BOARD
MARCH 23, 2005

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
George Lenhardt, Councilman
Thomas Marcelle, Councilman
Tim Gordon, Councilman
Kathleen A. Newkirk, Town Clerk
James T. Potter, Esq., Town Attorney

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Supervisor Egan welcomed everyone and invited them to join in the pledge of allegiance. Following the pledge, the Supervisor outlined the items going on at this meeting. She noted first was a regular Board meeting, at the end of the Board meeting Department of Transportation will be doing a presentation in regard to the proposed design for the Route 85 extension and at the conclusion of that, the public hearing will be started on the extension of the moratorium.

Supervisor Egan asked if anyone had any comment on any item on the agenda. Mrs. Marie Capone questioned the item regarding the hiring of the hearing officer for personnel matter. The Supervisor explained it was a personnel matter, an employee issue, a disciplinary matter and the way you go through it is that you have to have a hearing officer to hear the complaint. Mrs. Capone asked if it was the Union or the Police. Supervisor Egan said it is not.

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Mr. Jerad King next noted he was here for Patricia King who lives at 22 Paxwood Road, Delmar, New York. He asked about the comprehensive plan and the fact that the Board is approving the comprehensive plan or at least considering it an approving the plan for forwarding to Albany County. Supervisor Egan said she wanted to make it clear that the Board is acknowledging receipt of plan. She said the Town Board Members have not seen it yet. She said there is no Board discussion and noted at some point down the road there will be public hearings on the plan. Mr. King asked if this was inappropriate at this time. Supervisor Egan noted it was Mr. King's choice. Mr. King said if there were going to be discussion of changes to the plan, he could do it now or wait until later. Supervisor Egan advised it would be more appropriate at the public hearing.

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The first item was a Proclamation regarding underage drinking. Supervisor Egan noted an individual contacted her about adopting a Proclamation regarding this issue. She said the Proclamation basically says that the Town does not approve of drinking under the age of 21.

Councilman Gordon said he is in full support of the Proclamation and the groups and organizations in the Town that work to prevent tragedies that alcohol abuse can cause. He applauded their efforts but indicated in the 9th paragraph of the Proclamation, he thought the wording would be more effective if it was reworded. He suggested "Whereas, parents and the community must take responsibility to give teens the clear message as to the dangers of drinking alcohol". Supervisor Egan said that was fine and asked if anyone else had any comment. There were none.

The motion was made by Mr. Gordon and seconded by Mr. Plummer to approve the Supervisor executing the Proclamation with the change indicated, was seconded by Mr. Plummer and passed by the following vote:

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

The next item was a request from Engineering Technician, Timothy Ryan, for acceptance of a deed for 50 Herber Avenue for easement purposes.

The motion was made by Mr. Lenhardt and seconded by Mr. Gordon to approve the acceptance of deed for 50 Herber Avenue for drainage easement purposes from Ms. Carol P. Mincieli, Delmar, New York as requested by Engineering Technician, Timothy Ryan. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The following item was a request from Highway Superintendent, Gregg Sagendorph, for approval to go to bid for Precast Concrete Manholes, Iron Castings, Plastic Pipe and Corrugated Metal Pipe. Could advertise March 30, 2005 and open bids on April 12, 2005.

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

WHEREAS, the Town desires to advertise for bids for the purchase Precast Concrete Manholes; Iron Castings; Plastic Pipe and Corrugated Metal Pipe, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 30th day of March, 2005 and that bids be received up to 2:30 p.m.; 2:40 p.m.; 2:50 p.m. and 3:00 p.m. respectively on the 12th day of April 2005 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. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the appointment of seasonal personnel as listed by Administrator, Nan Lanahan, Department of Parks and Recreation, at the titles and salaries indicated and dated March 23, 2005. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The next item was a request from Nan Lanahan, Administrator, Parks and Recreation Department, for approval of award of bid for re-marcing the L Shaped Pool at Elm Avenue Park.

The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to approve the award of bid for re-marcing of the L Shaped Pool at the Elm Avenue Park to Surface Systems, Guilderland, New York, the low bidder as requested by Nan Lanahan, Administrator of Parks and Recreation Department. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The next item was a request from MIS (Management of Information Services) Director, Jeff Dammeyer, to appoint GIS (Geographic Information System) Specialist. Supervisor Egan noted this has been talked about previously. She said Michael Cirillo started this program before his retirement and conferences have been held on this. She noted they have visited Colonie to see how they are doing their program and spoke with Michael Kaulfuss at the Town who has been working on this in-house and after research and discussion, it was decided that there should be GIS specialist hired. She said the item was approved in the budget last year. The mention was made that there were forty-one responses; it was then narrowed down by Mr. Dammeyer and Mrs. Tremblay-Glassman. Supervisor Egan requested approval to hire Jason Baum of Delmar, New York as the GIS Specialist.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the appointment of Jason Baum, Delmar, New York to the position of GIS Specialist as requested by Jeff Dammeyer, MIS Director at the approved salary of \$55,330 with two (2) weeks vacation, effective March 24, 2005.

Councilman Lenhardt said, he thought after reading the resume that Mr. Baum is well qualified for this position.

The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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Supervisor Egan introduced Mr. Baum and welcomed him aboard.

The next item was to acknowledge receipt of the 2004 report from Comptroller, Judith Kehoe, on Capital Reserves. Supervisor Egan said Mrs. Kehoe is in attendance for any questions. Councilman Plummer asked about the various funds and the way they are set up if the Comptroller has a recommended percentage that the Town is supposed to try and maintain the same way he does as it relates to the fund balance. Mrs. Kehoe said not that she is aware of, but the reserves are prescribed by statute what you can set aside money for but there are no guidelines. Councilman Plummer asked if the money could be transferred from one Capital Reserve account to another. Mrs. Kehoe said generally no, unless it happens to be originating from the same fund. She noted as an example that if you had the general fund reserve and municipal training reserve, those two types of reserves are funded from the General Fund so you could do a transfer with Board approval from one to the other. She said you could not go from say a special district fund such as water or sewer into another fund. She said it has to be consistent with the fund from which it originated. Councilman Plummer thanked Comptroller Kehoe.

Councilman Lenhardt indicated he had spoke with Comptroller Kehoe in regard to his questions. Supervisor Egan thanked Comptroller Kehoe and noted it was very comprehensive.

The next item was to acknowledge is receipt of the 2004 report from Comptroller Kehoe on Investments, approval of said report, and approval of the Investment Policy. Supervisor Egan asked if there were any questions in regard to the report.

Councilman Gordon noted the three Key money market accounts were for the daily receipts, asking at what interval the money transfers to other money markets that pay a little higher yield. Comptroller Kehoe said as it comes in and as it is available. She said that is basically a temporary account for the daily receipts as they come in and the account from which any disbursements are funded out of. She said if a large receipt comes in the middle of the week, it is very easy to move that from the temporary account to the higher interest rate account. Councilman Gordon asked if it is done on a daily or a weekly basis. Comptroller Kehoe said as needed, no less frequently than once a week.

Councilman Gordon asked what the determining factor is in regard to the two higher yielding money market accounts besides selecting which one of the two. He asked if it was based on the rate alone. Comptroller Kehoe said the rates are generally comparable, both rates fluctuate and noted she is on an email notification system so that if the banks change their rates, she is aware of that. She said that is one factor that she looks at in deciding where to put the money. Councilman Gordon asked if there were any other significant factors. Comptroller Kehoe said she tries to keep some money on deposit with Key Depositories because in order to get good quotes when financing is sought, particularly on short term bond anticipation notes, there is a need to have a deposit relationship in order to get a better rate there. She said as long as the rates are roughly competitive, she said she tries to keep it within the two main accounts.

Councilman Gordon also commented that the permitted investments seem to be obviously conservative and mostly municipalities or government related and think it is important for the people in Town to know that the Town is not investing outside of the country or places that we would not be proud of investing. Comptroller Kehoe said speculative things that tend to loose value rapidly are not on the list.

Councilman Marcelle said in regard to the policy if the Town was just basically invested in CDs. Comptroller Kehoe said CDs at this point and actually for all of 2004 were really not as competitive as the rates she was getting on the money market. She said for all of 2004, the investments were within these higher yielding money market accounts. Councilman Marcelle further asked if there was any reason why we do not put some of the money into a municipal bond or government bond. Comptroller Kehoe said she periodically checks the rates to see how they compare to the money market fund but she has 100 percent liquidity with what is within the money market funds and this is also a factor that is looked at. She said if there is a slight percentage difference by going in treasuries or something like that, it doesn't necessarily make sense because then she would compromise liquidity. She said those are the factors she looks at when deciding.

Councilman Marcelle asked if she does not preclude that as a possible investment. Comptroller Kehoe said she does not, noting it is allowed within the policy and it is an option that is available with the rates. She said trending on the prior years investment report within 1 to 1 ½ percent or 2 percent. She said the rates are very low but are starting to pick up. She said there may be different results in the 2005 report if the rates continue to go up. She said there is a mixed blessing with the lower rates. Councilman Marcelle thanked Comptroller Kehoe.

Supervisor Egan asked if there were any other questions. There were none.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to accept the 2004 Report on Investments as submitted by Comptroller Kehoe. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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The motion was made by Mr. Gordon and seconded by Mr. Marcelle to approve the Investment Policy as presented by Comptroller Kehoe. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The following item was to remove from the table and consider approval of Sewer Agreement with Town of New Scotland.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to remove from table and consider approval of the Sewer Agreement with the Town of New Scotland. The motion was passed by the following vote:

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

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Supervisor Egan noted the Commissioner of Public Works and Engineering have been able to work through this agreement and there are no blanks in it anymore.

The motion was made by Mr. Lenhardt and seconded by Mr. Gordon to approve the Sewer Agreement with the Town of New Scotland. The motion was passed by the following vote:

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

Supervisor Egan noted she wanted to finish all the business items before the presentation.

The next item was a request from Judith Kehoe, Comptroller, for approval to hire a hearing officer for a personnel issue. The Supervisor indicated this was addressed in the public comment matter earlier. She said there is an employee issue that the process requires a hearing and they would like to move it forward.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the hiring of a hearing officer for a personnel issue. The motion was passed by the following vote:

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

The following item was to acknowledge receipt of the Draft Comprehensive Plan from the Bethlehem Planning Advisory Committee. Supervisor Egan said the Committee met on Monday, March 21, 2005 and voted to forward the Draft Comprehensive Plan. Mr. Leveille said about 1 year ago, a nine (9) member Advisory Committee was appointed pursuant to Town Law to develop recommendations for a comprehensive plan. He said almost 1 year to the date, the Committee is pleased to deliver a Draft Plan that comes with the recommendation of BPAC. Several members were in attendance – Parker Mathusa, Howard Engel, Katherine Daniels, John Mead and Mr. Leveille said there were 5 other members who worked diligently with more than 30 public meetings to produce the document. He said 8 members were in attendance on Monday evening. He said the plan was voted out 7 for, 1 against and presented to the Board for the adoption process.

Mr. Leveille said they are pleased to present the plan and look forward to the next few months as they produce proposed zoning and land use regulations amendments. He said they expect to deliver those to the Board within the next 30 to 45 days. He said then work could be done toward the public hearing process for a plan adoption. He thanked the Board. Supervisor Egan thanked Mr. Leveille.

The Supervisor said on behalf of the Town Board and not to put words in anyone's mouth but she wanted to thank the members of BPAC that were in attendance but also the members that are not in attendance. She said it has been a very time intensive project although very beneficial. She said for anyone who was in attendance for the public workshops, she said the majority of the comments started with an appreciation for the process and the opportunity. There have been discussions as to whether the plan goes far enough, does it not go far enough, according to Supervisor Egan and said there are people on both sides of this. She said she is very comfortable with the plan, as it has been proposed. She said it is probably not perfect and may need

revisions but she commended everyone who worked so diligently on getting the Board to this point. She said she would be remiss if she did not recognize George Leveille in this matter, noting he has been tireless in regard to this.

Councilman Plummer thanked the members of the Committee that were part of BPAC and for all the time and effort put into this plan. He said the community owes them a great deal. He reiterated what Supervisor Egan said about that.

Councilman Plummer asked Mr. Leveille about a tentative schedule that was mentioned. Mr. Leveille said there was an outline schedule presented previously, indicating when the public hearings would be held both on the zoning and the comprehensive plan. He said the plan needs to be referred out to Albany County Planning Board and to adjacent municipalities for review. He said the SEQR process must also be completed. He said the schedule would present approximately 3½ months of additional work to achieve the estimated schedule. Councilman Plummer asked if that is something that is public as well, since they are getting questions as to when the hearing is and what the process is going to be. Mr. Leveille said at this point they have not published the schedule anywhere but they could. Councilman Plummer noted he thought that would be a good idea to publish it.

The next item was a request from Engineering Technician, Timothy Ryan, for approval of payment for easements relative to Maple Avenue, Selkirk sidewalks. Supervisor Egan said this was a late item and the funds have been allocated but required action to approve the payment.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the payment of easements relative to the Maple Avenue, Selkirk sidewalk project. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

Supervisor Egan asked if there was anyone who wished to address the Board. Mr. King asked if this process regarding the comprehensive plan is starting with sending it to Albany County. He said he thought everyone should try to get into the zoning aspect sooner rather than later. Supervisor Egan said it is due to the SEQR process that this is being done this way, noting it kind of has to go this way. She said in the event there are changes either with the plan or the zoning, they would be done in the finalization of everything. She said if there are changes in the zoning that necessitate a change in the plan, it would have to be done before final adoption of the plan. She said similarly that if there was a change in the plan that would necessitate a change in the zoning, it will be done in conjunction with one another. Mr. King asked what happens if the plan is changed. Supervisor Egan said if the change is significant, the plan would have to go back to the County and municipalities.

Mr. King asked if he should save his comments because no one is interested in hearing them at this time rather later. He said he would do whatever everyone wants but he wants to make sure that certain things are out there before the process is pushed through. Supervisor Egan said she did not think it is anyone's attitude to try and push things through. She said with the 30 plus public meetings no one is pushing anything through. Councilman Plummer said one thing that needs to be made clear is that it is his understanding that when you bring up the issue about the plan and the zoning, there will be at least 2 hearings – 1 for the plan and 1 for the zoning. He said there is not just 1 hearing and that is it. Mr. King said at this point, he wants to make sure the Town Board is understanding of the fact that there are people who are in disagreement with at least certain portions of the plan. Councilman Plummer said he understood that and noted Mr. Leveille has put together a tentative schedule that is very thorough and a lot of logic to it as to when you have hearing 1 and the next one. He said there will be a lot of opportunity. He said that is why it is important. Mr. King said he would accept the Board's direction and hold his comments. Supervisor Egan said she would assure everyone that there are no foregone conclusions.

Mr. Leveille noted that copies of the draft plan will be available on the Town's website by the end of the day Friday. He said copies may be purchased at Mailboxes Etc. across from Delaware Plaza. He said the draft includes the entire inventory, which is another hundred plus pages. He said they will try to make it available on the website, burn it onto disks if that is convenient. He said acquiring a copy would probably be a \$20 effort because it is a voluminous book. He said they will, with the Board's permission go ahead and publish the proposed tentative schedule for completion of the process to give a guide. Supervisor Egan asked if a copy will be in the library. Mr. Leveille said there certainly will be copies at the Library. She said there is also a copy at the Library for review and one at the Town Clerk's office. Mr. Leveille said they will continue to take comments directed to his office and he will make them available to the Town Board as they are received as they have been throughout the process.

Councilman Marcelle asked if it was possible to put it on the website. Mr. Leveille said it is already there but this final draft which was just amended as from Monday's meeting will be on the website by the end of the day on Friday.

Supervisor Egan asked if there were any questions or comments. Ms. Jasinski requested that the draft be made available at the Ravena Library and it was also suggested that it be available at the Guilderland Library. Supervisor Egan said they will do this.

Supervisor Egan said the only other thing update wise that she can give, so they can get to the DOT matter, is the Board Members being provided a copy of the resumes and letters of interest for people that want to serve on the EPA committee. She passed out a couple more that were not included in the packets. She said she wanted them to have a full packet. She said over the next couple weeks she anticipated the Board will be able to put that together.

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The following item was a presentation by DOT on roundabouts for proposed Route 85, New Scotland Road, expansion. Mr. Rob Cherry thanked the Board for allowing the Department of Transportation to be at the meeting to relay information on to the Town Board as far as the Slingerlands Bypass project. He said the project has been a long time in the making.

Mr. Cherry said a final SEQR statement had been drafted and completed in September of 2004. He noted following that time that document was made available to State, Local and Federal agencies for review and comments. He noted based upon the comments received, a record of decision has been written by the Federal Highway Administration. He said that document was signed at the end of February 2005. Subsequent to that time, Mr. Cherry said the department has filed the SEQR record of decision for the project. He said this is the department's design approval document inferring this is the project and they have an alternative that they are pursuing for final design. He said the project to be out in the street is going to be in construction, if the money stays in line, in Labor Day 2006. He said they are very hopeful to see construction underway.

Mr. Cherry said as a component of the project, it is incumbent upon them to provide a safe facility for all users within the corridor. He said one topic that has been raised, as far as, overall engineering practice is to look at how intersections are designed. He said there is one component that has raised interest and found to be very positive as far as addressing the traveling public.

Mr. Cherry noted the presentation involved is the information about roundabout intersections. Information was reviewed with computer assistance regarding traffic patterns and possible roundabout installations, along with statistics regarding accident reduction.

Contact information for the New York State Roundabout Design Unit was presented. Three (3) persons work strictly on roundabouts and about 50 roundabouts are in design right now.

Timetable was mentioned, noting project is on schedule, with design approval of the project happening this winter; construction is aimed for summer of 2006; entering

final design stage – with a look being taken at which way to go with the roundabouts and the signalized intersections, either choice as long as a decision is made in the near future will not delay the project – with construction starting in the fall of 2006 and leading into a 2 year project.

Supervisor Egan noted questions from the Board may be taken now but the representatives will be in the hallway afterward. Councilman Lenhardt commented that he experienced roundabouts a few years ago in Australia and other than going in the opposite direction he found them to be quite helpful and noted these were on highways that did not have the amount of traffic as is seen on New Scotland Road and the bypass extension area. He said he is still a little skeptical in that area but the other places he feel will work.

Councilman Marcelle asked if during the presentation the projection included the future growth in the simulations based on future population growth. Mr. Cherry said it was regional traffic growth. Mr. Marcelle further asked if this was projected during an a.m. or p.m. rush hour. Mr. Cherry said they used the worst-case scenario, which would be the p.m. scenario. Councilman Marcelle said the only other question he had was if the traffic from Route 85 approaching Blessing Road – saying he was thinking southbound, coming from Albany – tends to be the fastest moving traffic hitting a round about, not necessarily during peak hours because traffic volume itself would slow it down but off peak, asked how do you handle situations where you are traveling at a high rate of speed toward Blessing Road. Mr. Cherry said to try to keep it in the proper sense and the proper vein, that the roundabout design is very unique in that the geometrics play an integral roll guiding the motorist through the roundabout and maintaining an appropriate speed. He said as you approach a roundabout, you will notice a change as you look ahead. He said the roadway will have the physical appearance of shifting to the right. He said the driver's intent is to either make that right hand turn or negotiate around it. He said through the geometrics a driver really does not have much of a chance to do anything else. Mr. Marcelle asked if there would be a change in the speed limit at all. Mr. Cherry said as it relates to the speed limit itself on Route 85, coming from Albany, right now the speed limit will remain posted at 55 miles per hour. He said what they will do is evaluate the actual speed, the operating conditions and be sure that is posted appropriately. He said certainly there are advance warning signs of the roundabout and there are advisory signs for the reduction in speed. The speed between the links of the nodes of the roundabout will be addressed as construction continues. Mr. Marcelle said that is his only concern.

Councilman Plummer said he thought that as very positive and noted his experience with the one in Voorheesville has been positive. He did not know what kind of feedback is being obtained. Mr. Cherry said although there were a lot of folks that were anti-roundabout have come around to see that the function and value of a roundabout can provide. Mr. Plummer further asked what this would add to the cost of the project. Mr. Cherry said the cost of the project is expected to be minimal on the overall construction cost. He said the real benefit to them is the ability to provide the upper level of providing service to the users of the highway for an extended period of time.

Councilman Plummer asked if there were more Federal or State dollars available for doing the roundabouts. Mr. Cherry said he does not believe that is in the cards right now. Mr. Plummer asked alternatively if the roundabouts were not to be done, what would they envision the speed at going straight through as it is now. Mr. Cherry said consideration has been given to that and it is not right straightforward. He said he apologizes but again coming down out of Albany, that portion of the road from Albany to Blessing Road, at this time it is expected to be signed for 55 miles per hour. He said once the Blessing Road intersection is passed, they have introduced modifications to the highway's geometry and through the curves it is anticipated that there will be reduction in travel speed to something in the range of 50 miles per hour if not less. He said the signage of the speed will be strongly dependent upon the actual curvature and the actual signage will be based on a ball-banking device that the Traffic Engineering Office will utilize to properly sign it for the safe passage of the motorist.

Supervisor Egan said the original design when they got involved about a year ago, two of the main concerns were the speed as you approach the Price Chopper coming from

Albany and the aesthetics. She said both have been echoed from various parts of Town in regard to various projects as the comp plan has been developed. She said they were encouraged to see the two concerns addressed.

Councilman Plummer said he thought the presentation was very positive. He said he thinks this should be looked at very seriously. He said he thought this made a lot of sense.

Mr. Cherry said he hopes this presentation was informative, educational and again stressed it is not a done deal but it is being given serious consideration through the design teams that are working on this project. He said if the decision is made to incorporate roundabouts, they will certainly look to inform the public as has been said a number of times. He said public education is very vital and very crucial because it is a new, unique type of intersection design for the regional area.

Councilman Lenhardt commented that the bypass was under design or thought process back when he was in high school. He said one of the slides showed stage 1 and as he remembered a prior presentation, stage 1 will be a 4 lane divided highway from the Normanskill up to the back of the Price Chopper where it intersects with New Scotland Road. He asked about stage 2, mentioning that there will be only 2 lanes from the Thruway to the Normanskill to the first roundabout. Mr. Cherry said that is a very good assessment, noting stage 2 would be what they refer to as the twining of the bypass from Blessing Road on up to the Albany City line. Mr. Lenhardt thanked Mr. Cherry.

Supervisor Egan asked if there were any other questions. Councilman Gordon said to give feedback as well, he said he was impressed with the Insurance Institute of America's numbers. He said it was an independent organization. He said it was real positive when you can have increased safety and actually improve the commute times. He said anyone who drives through there at rush hour, knows that it is pretty rough right now.

Supervisor Egan thanked everyone. Mr. Cherry thanked the Board. She said anyone who is still interested can meet the representatives out in the hall.

Hearing Began: 6:50 p.m.

SUPERVISOR EGAN: This is the public hearing, please be seated if you are not if you could just make it into the hallway we would really appreciate it.

Let's get started, Kathy could we read the call of the meeting, please.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING
ALBANY COUNTY

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on March 23, 2005 at 6:30 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider proposed Local Law to consider extend term of Moratorium on residential development.

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)

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

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 March 9, 2005.

/s/ Liza Cline

Sworn to before me this 9th day of March 2005.

/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 March 9, 2005 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
10th day of March 2005.

/s/ Julie S. McNeil
Notary Public

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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. Marcelle, Mr. Gordon.

Noes: None.

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SUPERVISOR EGAN: Okay. Before we get started, I thought we'd just go over exactly what we're here for this evening. As this was noticed, it was... this hearing is to extend the current moratorium for a period of 6 months. As we talked about at the last Board meeting obviously based on public comment, and anything else the Board feels relevant that that time period can change and depending on that change there would be a determination whether there was a significant change that would then trigger rehearing and extension of this particular hearing itself. In addition to that at the last Board meeting, we had a presentation from Dave Carpenter and he had a request for a revision that would basically just amend the current moratorium just actually a tad bit to allow internal review to proceed with respect to the projects that have been queued up at this point in time. And, there was some concern that people have been waiting for about a year and certainly I appreciate the patience and understanding that everyone has shared in regard to that matter but the thought was a lot of the things that need to be done with these projects are ministerial or administrative and it might make sense to move those projects along internally, again, not binding the Town and certainly at the risk of the developers pending the final outcome of the plan and the zoning ordinances which may have affects on any particular project that is already in the queue.

As a result of that I had conversations with Jim Potter. We had conversations with the Secretary of State in regard to what could be done with the language of the moratorium that would allow for that internal review of the Board so chose to allow that to occur versus just leaving basically a full freeze for the period of time to be determined. As a result of that, I think on the table as you came in, there was kind of like worksheets and it's not meant to be anything more than a worksheet because all we did was take the local law from last year and make a minor revision to section 3 sub paragraph 6 of that. Sub paragraph 6 is basically where it said, the terms Planning Board, Town Board and Board of Appeals would also be interpreted to mean the internal planning staff also. So, we kind of have 2 things going. We would be more than happy to hear any testimony from

you in regard to that is - 1. To leave the language as it is, which is a full freeze across the board for a period of time to be determined or 2. to have comment whereby we would allow that internal administrative review to proceed. And, the language that is being proposed is as follows – ‘notwithstanding the foregoing, nothing shall prohibit the planning staff of the town from reviewing any projects on an informal basis but no representations of the planning staff shall be considered binding on the town nor shall any representations create any vested rights in any aspect of development otherwise prohibited by the moratorium’. So, that’s what we’re here to hear testimony and take testimony on this evening.

Again, at this point, I only have 2 people who have signed up to talk which I find incredibly low. Usually everybody is much more verbose than that but if we want to start, we will start with Calib Winstar... Winstar, sorry Calib, should know better.

MR. WISTAR: Yea, Members of the Town Board, Supervisor Egan, I just wanted to weigh in my sincere appreciation of the Planning Advisory Council and all the hard work that they have done. They have really done an admirable job and I think that we are really moving ahead on the plan and it seems to me counterproductive at this point not to extend the moratorium for at least 6 months because it seems like they go hand-in-hand. It seems like a no-brainer to extend it and I think the internal review would, you know, probably be a good idea as long as you say to the folks who are subject to the internal review realizes that it is at their risk. So, I fully support the continuation of the moratorium for at least 6 months. Thanks.

SUPERVISOR EGAN: Thank you, Calib. Dave, do you want to speak? Dave Carpenter.

MR. CARPENTER: Good evening, Dave Carpenter, from LeBeouf, Lamb, Greene and McCrea. Just wanted to extend my appreciation to the Board, to Jim, to Terri for taking this under advisement and for being willing to consider the interests of the developers, as well as, your soon to be overworked planning staff. And, again, just wanted to say thank you very much and we appreciate the efforts and we think that you have done a very good, fair and equitable job in taking care of this. Thank you.

SUPERVISOR EGAN: Thanks, Dave. Is there anybody else that wants to be heard at this time? We won’t make you sign a card. Okay. I would note just for the record, it’s copies that I did provide to the Board with respect to the moratorium, I did receive an email from Dr. DeLuca and Gene Hoffert which I provided a copy and it is short and I will just read it – We write to support the extension of the existing moratorium on building in the Town of Bethlehem. We have participated in and followed with interest the development of a town-wide comprehensive plan for development. Now that the plan is in it’s last iteration and soon to be presented for approval to the town board we feel it only appropriate to extend the moratorium for a brief and defined period until the plan has been approved and can serve as a guide for approval of proposed development in the town. We congratulate BPAC and the Town Officers for an open and thoughtful process. Tony DeLuca and Gene Hoffert – 207 Barent Winne Road.

That will be included together with a letter from Infinigy Engineering who... their connection is to a project Pines at Normanside subdivision. It’s a 16-lot subdivision – George, I believe it’s at the end of Leonard Place.

COUNCILMAN LENHARDT: Okay. Okay, all right.

SUPERVISOR EGAN: And, I would read it is also short and since it is the only other one that we have –

We are in receipt of your March 11, 2005 letter whereby you made all subdivision applicants aware of the proposed moratorium extension. – And, aside from the letter during the consideration of the very first moratorium back last spring, we sent out letters basically to the builders, developers and private donors of anything that had a plan, had anything pending before the Planning Department to let them know what was being considered. Similarly when the request and the consideration for this extension happened, we did the same thing again. We wanted to make sure that everybody that was specifically affected had notice of this and had an opportunity to come in to be heard.

The letter continues -- We are disappointed by the extension while at the same time understand the reasoning behind such a request.

We have waited one year during the imposed moratorium. All work done on our project to date has been put on hold, with the exception that we now have invested significant money purchasing the Property (in process) as contractually required. Our support and belief in this community remain unshaken but we need to encourage meaningful movement on the Master Plan.

Our Property appears to be in a Hamlet district. One of the recommendations of the study is to "consider development of (individual) Hamlet Master Plans." While we like the Hamlet concept, the details of what this truly means are vague. We assume the ambiguities will be cleared up during the ensuing six (6) months. We encourage the Town to develop any of these specific Hamlet Master Plans during this next six month interval and not in addition to the (18) months we have will endure. Please consider our input during the next six months as an asset to be drawn upon.

One last suggestion would be to involve our Property in the planning process of the Elsmere and Delmar Hamlets. We have the time and energy to work with the Town and will feel like our Project is moving forward.

We can be reached at your convenience at (518) 330-4147. Thank you in advance for consideration of this request.

I have not spoken to Mr. Stevens in regard to the proposed change in regard to moving internally these projects along. I wanted to wait and see what the feeling of the Board was but I would be more than happy to do that.

Those are the only two comments that I have received having to do with this particular matter. Mr. Jasinski.

MR. JASINSKI: Good evening, Bob Jasinski. Well, first I want to thank George and the BPAC for what they have done. George has been very open about it and listening to all the complaints and everything, even some of mine.

SUPERVISOR EGAN: Compliments sometimes too.

MR. JASINSKI: And, thank you for everything. The only thing that I question is if you extend this for 6 months, now give me some dates that you are extending it to.

SUPERVISOR EGAN: The current moratorium expires April 8th. So, it would be as soon as we file this local law, which I will get to in a minute, which will be the beginning of April for 6 months. So, the first week in October.

MR. JASINSKI: Okay. I'll give you a couple fingers there only mine are a little crooked.

SUPERVISOR EGAN: The first week in October.

MR. JASINSKI: What I wonder is, now if this moves along, your zoning and everything else, is there any way or do you have anything in there that you can shorten this period.

SUPERVISOR EGAN: We actually we've kind of talked about that. The problem is, even shortening it is a change in a local law, so we have to go through the request notice period, notice of public hearing, have a public hearing and then vote on it. Possibly it would make sense, you know, but I don't know how much time we would actually save once we went through that entire process. But, yes, it is possible, you know, we finish the plan and the zoning ordinance the middle of July which I think is the anticipated target date, we do have a little bit of gear up... you know, gear up time, we have to basically reeducate our Planning Board, our Zoning Board of Appeals, as well as, our internal reviewing staff. We'd like to be able to do that. Obviously with the new ordinance but if it became obvious, you know, that we were ready to go the beginning of August we certainly -- and I don't mean to speak on behalf of the Members of the Board -- but I think it would certainly be worth a discussion to see if it would make sense at that

point to have a hearing to discontinue the moratorium.

MR. JASINSKI: My concern and as I stand here I think about it, you are into your fall season so if you are pouring concrete then you got to put your antifreeze into it which doesn't make as strong a base – at least that's the way I think. And, not only that but then with mortgages going up now as you've seen, the banks have increased – Greenspan seems to be putting the extra quarter percent on and I think this is going to curtail some of your building and some of your buying and maybe not so much as your building until the builders get burned a little bit and then all of a sudden they step back. I see where in the Spotlight, Loomis has said that they didn't have the anticipated buildings in this past 2004 so he's drawing back a little bit on some of his requirements for the town school district, at least the Bethlehem town. So, I just caution you on these things. Thank you very much.

SUPERVISOR EGAN: Thank you for your comments. Is there anybody else that would like to speak this evening? Nothing. Okay, do I have a motion to close the hearing?

The motion was made by Mr. Lenhardt and seconded by Mr. Gordon to close the public hearing at 7:08 p.m. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

Town Clerk

Supervisor Egan noted with respect to logistics, one of the things that have to be done when a local law is changed is to put Albany County Planning on notice. She said the municipalities are notified and the notice went to Albany County Planning. She noted they contacted them before their March meeting to make sure that they received it. She said they received it but somehow this did not get on their agenda. The next meeting will be held the end of April, which creates a problem. She said one of the other provisions of the law allows that once something is provided to Albany County Planning after 30 days the Board is allowed to act. She said a vote cannot be taken tonight, noting the earliest this could be voted on is April 1st. She suggested a Special Meeting be set for April 5th at 5:30 p.m. to continue the matter and take a vote. She said in this way, the proposed law, if adopted, could be filed prior to the expiration of the previous moratorium with no lapse.

The Supervisor noted the language has to be put together for this – noting the original wording or the proposed change to allow for internal review. Councilman Plummer said he likes the idea of allowing the projects to move forward. He said they represented a year ago that this would take a year. He said this is going to take longer than that and he understands the need to have the Planning Departments and all those that are going to be involved to have necessary time to implement this when it is done. He said he is hopeful that the schedule can be adhered to. He said he is also hoping that there can be a vote in July and encourage everyone to stay with the schedule and try to get the vote in July if at all possible. He said knowing the needs, as far as, implementing the program, he is supportive of the extension to the 6 months provided the language is incorporated into it that allows certain projects to be reviewed on an informal basis.

Supervisor Egan thanked Mr. Plummer. Councilman Lenhardt agreed noting he could not have said it better. He said he concurred. Councilman Marcelle said he was in concurrence somewhat and dissent somewhat. He said the basic premise that he articulated a couple months ago, noting he does agree with Councilmen Lenhardt and Plummer, the moratorium was a representation of quit quo pro by the town – noting it says look we have significant issues in the community and we needed a plan and rewrite the zoning laws. He congratulated everyone who has been involved with producing the draft plan in under a year. He recognizes as a matter of necessity there is going to have to be an extension to the moratorium. He said it would be a disaster to lift the moratorium

before there is a final plan. He said he is certainly happy given last meeting when the suggestion was made that at least informally the review process be begun.

Councilman Marcelle said what he is concerned about is that government tends to fill up the time allotted and while proposing to vote in July and could be ramped up by August giving people an opportunity as this goes forward to get something left of some potential building is that he is afraid if this is put off until October, this will take until October as a practical matter, finding things to delay this. He said, personally, he likes keeping the feet to the fire. He said he thinks this has gone through a process, well thought out, well developed process and process that reflects the community input to get to the point where it was presented to the Board and not that there would not be dissent and the Board tweak it but to at least come to a point where the plan had been thought out and developed and the needs of the vast majority met with adequate protection of the minority interest. He said to the extent that that balance needs adjustment, of course, the Board reserves that right. He said they are trying to be sensitive to both sides of the equation – to all the work and the necessity that has to be done but also necessities of those who have borne the economic cost and the economic hardship of this process. He said he would rather see something like a 4 month or 5 month extension. He said the 30 days probably does not seem substantial to the Board but to some it would seem a long time. He said in concept he understands an extension is necessary.

Councilman Lenhardt said to this point, George Leveille and the BPAC members have expended countless hours in this process to get to this point and he fully expects they will continue this effort with the zoning and he fully expects that the schedule will be adhered to. Supervisor Egan thanked Mr. Lenhardt.

Councilman Gordon said there is a necessity to extend the moratorium and he thinks they do need to be prepared to take adequate time so that the Board can be responsive in the public hearings that are coming up. He said they should not try to rush through the process because if it was rushed, there might not be the opportunity to listen fully and make adjustments based upon what is said.

Supervisor Egan thanked Councilman Gordon. She proceeded to say that she agreed with Councilman Marcelle. She said she did not have a copy of the letter they sent to the builders and developers and the project owners but part of what was expressed was in the letter. She mentioned that no one has been in and everyone seems to be respectful and understanding the process. She said she thinks they understand the value that this plan and the new zoning ordinance is going to provide them in the long run. She said this is by far not a done deal despite the tremendous amount of hours that have gone into the draft plan that was presented to the Board Members, there are certainly different opinions. She said there are those who feel it goes to far and there is another group that thinks this has not gone far enough. She said that is something the Board will have to assess. She said she also agrees with Councilman Marcelle that the lawyers do tend to fill time up if they have it. She said her concern is that she does not want to have to come back and extend it again. She said she thinks the 6 months should be the extension but she is sensitive to the need, commenting that there will be no two people – George Leveille and herself – who will be happier than when this project is over. She said speaking on behalf of BPAC also, their intention is to move this process as they have moved the comp plan and just stick as close to schedule and they can. She said in the event it can be done and prepared to start reviewing projects and get things moving, she would support an application at that time to notice a hearing to discontinue it. She said in order to continue with the credibility of the process that they have developed over the last 12 months, that the Board should look for the 6 month term and then be open minded and willing to see where this is at as it moves forward.

Councilman Lenhardt said one technical question, if the Board has a public hearing in August to end this process, is there still the 30 day period with Albany County Planning Board. Supervisor Egan said yes, it still applies. Mr. Lenhardt said he does not know how you can avoid 6 months. Supervisor Egan said that continues to be an issue. She said the one thing that was heard over and over again at the public hearings that BPAC held was even those that still had complaints about the plan were very complimentary about the process and the opportunity to be heard. She said she wanted to make sure that this is allowed to continue to happen.

Councilman Plummer said he thinks if there is a very sincere effort on behalf of the planning staff and the team to work with those that are queued up and those that have questions, then it will help move the projects along or at least enable them to get active on what they have invested their time and their money on. He said if that is a sincere effort and we are truly working with them in that regard that should alleviate any real problem that they may have. He said he thinks this area has to be focused on because that takes away from the issue of 4, 5 or 6 months.

Mr. Leveille noted that they are mobilizing by procuring competent engineers to assist in the project review, which is really the form of review that most townships in the region use. He said these are engineers who will do review, be paid for by the developer for the larger project and that will take the burden off the staff who can work on the smaller project. He said they are gearing up and getting ready for this. He said he thinks they can do quite a bit of internal review prior to the expiration of the moratorium so that they are ready to move forward on a dozen projects at that time. He said new applications will need to be based upon what is approved by the Board, which will not occur for several months. He said he thinks there will be a lag from when the plans are approved and ordinance is adopted to when new applications will be tailored to meet that new code.

Councilman Plummer asked if the plan was able to be stuck with and a vote is taken in mid-July, would it be possible for the new applicants that want to come forward, based on that plan, to also have that informal review. Mr. Leveille said I am not sure what the wording would say. Supervisor Egan indicated she asked Town Attorney Potter and he said based on the language, that would be possible. Mr. Leveille said it is not binding but yes it could be. Mr. Plummer asked Mr. Carpenter if that would be appropriate for what they were suggesting. Mr. Carpenter said the argument for opening the process may be over broad if it is for everyone but their concern was for projects that are already in the pipeline. Councilman Plummer said his view is that the new applicants could not be done now but what could be done is that those that are already queued up can be reviewed. He said any new projects should come after they are able to vote on the plan. Mr. Leveille noted they have instituted a new process called development review which will be on a very set schedule monthly to assemble all Town departments that have some responsibility for development, emergency services, whatever to look at concepts prior to applications. He said they brainstorm on what kind of issues, opportunities, problems, challenges and solutions the developer might find. He said it is a way to make sure that when an application comes in many of the ideas have already been put on the table. He said he would suspect under this, they could entertain under this development review process, concepts that are not yet applications. Mr. Plummer said this is good.

Mr. Carpenter said that at least for projects that have been under review for years or months, he understands that the staff will definitely need some help in terms of outsourcing to engineering firms and so on but he thinks just in the interest of efficiency, keeping the pipeline projects with the current planning staff that has familiarity with what the project is rather than outsourcing it to a new firm and then billing that back to the developer. He said that is tilting it toward the inequitable side of things. He said he agrees with Councilman Plummer.

Supervisor Egan said, not trying to speak for the Director of Economic Development and Planning, one of the things that they have been trying to do for the last several months is figure out the way to streamline this and do what makes most sense. She said she and Town Attorney Potter were discussing on a practical note something new coming in, it will have the first set of eyes on it where the stuff that is here and queued up, has a familiarity of our current planning staff and would make sense that that is going to move a little more expeditiously than something new coming in. She said anything new would be a huge risk at any time before final adoption to the Zoning Board. Again, she thinks this can be worked out because she thinks everyone's intentions are the right way. She said based on the new process, she thinks it will be beneficial to everybody.

Councilman Marcelle said he would like to propose to the Town Attorney that the moratorium extension in terms of six months or the passage of the regulations whichever occurs first. He said in the event this gets passed in July, we run 100 days as opposed to 180 days, which could be significant. He said he does not know why we have to

condition it on the time certain if it can be conditioned on an event. Town Attorney Potter said that is certainly some thing that can be considered by the meeting on April 5th. He said he will give a more comprehensive answer then.

Supervisor Egan said in the event that that can happen because again she is very sensitive to making sure the Board is legally defensible to any challenges on this, noting the first one that was written was very solid. She said she wants to make sure that the Secretary of State signs off on this one too. She said if that is possible, and she thinks it is a great idea, but she thinks it is not just that but that a time frame should be added to that because it is not just the passing of the zoning ordinance but it's getting our staff familiar with it. She said there are Planning Board and Board of Appeals members who have to be brought up to speed. She said she wanted to make sure that there is enough time to have this done.

Supervisor Egan said based on the comments to this point, she asked if she were correct with the new language regarding internal review. The Board Members said they were and thought it was a necessity. She said at the April 5th meeting at 5:30 p.m. the time framing can be considered.

The motion was made by Mr. Plummer and seconded by Mr. Marcelle to adjourn the regular Town Board meeting at 7:32 p.m. The motion was carried by the following vote:

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

Noes: None.

Absent: None.

Town Clerk