

**Town Board  
February 24, 2010**

A regular meeting of the Town Board of the Town of Bethlehem was held on the above date at the Town Hall, 445 Delaware Avenue, Delmar, NY. The meeting was called to order by the Supervisor at 6:00PM.

PRESENT: Samuel Messina, Supervisor  
Joann Dawson, Councilwoman  
Mark Hennessey, Councilman  
Mark Jordan, Councilman  
Kyle Kotary, Councilman  
Nanci Moquin, Town Clerk  
James T. Potter, Esq., Town Attorney

Supervisor Messina called the meeting to order and asked the participation in government class to lead the Pledge of Allegiance.

**PUBLIC COMMENT ON AGENDA ITEMS**

None

**2/10/2010 TOWN BOARD MINUTES**

A motion to approve the Town Board minutes as presented was offered by Councilwoman Dawson, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary

NAYES: none

ABSENT: none

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**ACKNOWLEDGE RECEIPT OF 2009 ANNUAL REPORT FOR THE PARKS AND RECREATION DEPT. FROM THE ADMINISTRATOR OF THE PARKS AND RECREATION DEPT.**

Councilman Hennessey asked Ms. Lanahan how the 2009 pool expenses and revenues compared to the previous year and what are the expectations for the coming year. Ms. Lanahan said expenses were reduced from the prior year because the pool was closed a week early and it was a rainy season, so lifeguards were sent home early. The pool closing date has not been discussed for this year yet. There had been some disappointment from residents when the pools closed earlier and pools are completely weather driven. Councilman Hennessey asked how much the revenue had decreased. Ms. Lanahan didn't have the numbers but said she would get them to the Board. Councilman Kotary asked about the pavilion and warming area reservations and if they were driven by desirability. Ms. Lanahan said Elm Avenue Park is usually the first choice but once people go to Henry Hudson Park they usually want to have their event there the following year. The golf course rounds were also down and that was also a weather issue. The revenues still exceeded the expenses at the golf course regardless of the weather. Ms. Lanahan said the Town has run the golf course for two (2) full seasons and it has been profitable for both seasons. Councilman Kotary said the golf course has been a success at both preserving open space and revenues. He thanked Ms. Lanahan and her staff. He said he frequently used the skating pond at Elm Avenue Park

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and thought the staff had done a great job there. The weather has cooperated this year. Councilman Jordan said it was commendable that revenues for the golf course have gone up even though rounds have gone down. Councilwoman Dawson liked the new format of the report. Councilman Hennessey said there weren't any field fees included in the report. Ms. Lanahan said the revenues are steady from one year to the next; those fees have not increased but she would supply the Board with the numbers.

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**REQUEST FROM THE CHIEF OF POLICE TO ACCEPT A DONATION FROM WAL-MART FOUNDATION IN THE AMOUNT OF \$2,000 TO OFFSET EQUIPMENT COSTS.**

A motion to accept the donation from Wal-Mart Foundation was offered by Councilman Jordan, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary

NAYES: none

ABSENT: none

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**REQUEST FROM THE COMMISSIONER OF PUBLIC WORKS TO SCHEDULE A PUBLIC HEARING FOR MARCH 24, 2010 AT 6:00pm TO CONSIDER EXTENSION OF TOWN OF BETHLEHEM WATER DISTRICT #1 TO INCLUDE 548 PROPERTIES ALREADY RECEIVING WATER FROM THE TOWN'S DEPARTMENT OF PUBLIC WORKS**

Mr. Cansler said this initiative had started last year in an effort to combine all the properties in the Town that are already receiving water like the people within the water district. Those people are considered out of district and though they don't pay water taxes, they do pay double the water rate the in-district residents pay. An in depth presentation will be given prior to the public hearing but he wanted to explain the action now. He said it will impact the budget about 1% but it's the right thing to do. The out of district people are receiving the same water and it will impact their expenses. There are about 548 properties that are affected. For various reasons the water district was not extended into these areas in question. Usually extensions were done as the developer puts in the houses. In the past because of droughts and other matters, there was a moratorium on the water district extensions by NYSDEC. In one effort they are trying to get all the properties into the district and keep up with the extensions going forward.

Councilman Kotary said he understood the situation but wanted to explain it to those in the audience. There are two (2) groups in Town; in-district users that pay a water rate and a tax and other residents that pay no water tax but double the water rate. This measure will have all residents paying the water tax and the same water rate. Mr. Cansler said in 1959 a ruling said that anyone not paying water tax had to pay double the water rate. For most people, the cost of double the water rate is higher than the tax plus the water rate. There will be a few exceptions. He said this will not affect the people in New Scotland that receive Bethlehem water. They will continue to pay the double water rate because we cannot tax them.

Councilwoman Dawson asked the fiscal impact for the coming year. Mr. Cansler said it would be about \$150,000. less revenue to the Town. He said they were making cuts in other areas to make up that revenue. This will also incorporate the South Albany Water district that has always been separate. There

are twenty-three (23) homes affected. The current in-district people will not be affected at all and that amounts to about 95% of the residents.

Mr. Potter asked how soon the people brought into the water district would start paying taxes. Mr. Cansler said as of January 2011. They would start paying the rate as soon as everything can be approved. It would probably effect their water bills somewhere around June or July. Mr. Cansler said the book of legal descriptions of each property and the map will be in the clerk's office for viewing.

Councilman Hennessey asked if each resident being affected would be notified. Mr. Cansler said no. He said the public hearing notice would be on the WEB site and in the paper. Councilwoman Dawson asked if something could be added to their water bill to explain the different rate. Mr. Cansler said they could add a flyer to the bill.

Mr. Coffey, attorney for DPW, said the legal steps for this extension falls under Article 12A of the Town Law. There was a draft resolution in their packets that included a SEQR determination. The resolution would declare this an unlisted action under SEQR with no significant environmental impact, issue a Neg Dec and set the public hearing date.

Mr. Potter said there will not be any infrastructure built or financing needed so there is no requirement to present this to the Comptroller's office prior to adoption.

A motion to approve the Resolution as presented was offered by Councilman Hennessey, seconded by Councilman Kotary and was approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary

NAYES: none

ABSENT: none

**Resolution #6**

At a regular meeting of the Town Board  
of the Town of Bethlehem in the  
County of Albany, New York  
at the Town Hall in said Town  
on February 24, 2010

*IN THE MATTER OF THE EXTENSION OF  
WATER DISTRICT NO. 1, IN THE TOWN OF BETHLEHEM,  
IN THE COUNTY OF ALBANY, NEW YORK*

**ORDER CALLING  
PUBLIC HEARING**

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**WHEREAS**, previously hereto a map, plan and report have been prepared by the firm of C. T. Male in such manner and in such detail as has heretofore been determined by the Town Board of Bethlehem, New York, relating to the extension of Water District No. 1, Town of Bethlehem, and

**WHEREAS**, such map, plan and report have been duly filed in the office of the Town Clerk of Bethlehem, New York where the same are available during regular office hours for examination by any persons interested in the subject matter thereof, including estimate of cost, and

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**WHEREAS**, the boundaries of the proposed extension of said district are set forth in Schedule A, attached hereto and made a part hereof, and

**WHEREAS**, the Water District No. 1, Town of Bethlehem would be extended to include an additional 548 parcels, and

**WHEREAS**, the aforesaid Water District extension will not require any financing or taking on of any debt, and

**WHEREAS**, there is no estimated hook-up fees to the property owners as the owners are currently receiving their water from the Town of Bethlehem, and

**WHEREAS**, the maximum cost (engineering and legal fees) for the water district extension is estimated to be \$25,000.00, and

**WHEREAS**, said Extension and the establishment thereof has been determined to be an Unlisted Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which as proposed, the Town Board has determined will not result in any significant environmental effects, and

**WHEREAS**, it is now desired to call a public hearing upon the question of establishment of said Extension and the improvements proposed therefore, all pursuant to section 209-d of the Town Law;

**NOW THEREFORE IT IS ORDERED** by the Town Board of the Town of Bethlehem, Albany County, New York, as follows:

Section 1: A meeting of the Town Board of the Town of Bethlehem, Albany County, New York, shall be held at the Town Hall at 445 Delaware Avenue, Delmar, New York on March 24, 2010 at 6:00 pm, for the purpose of holding a public hearing to consider the establishment of an Extension of Water District No. 1, and to consider the map, plan and report filed in relation thereto, and to hear all persons interested in the subject matter thereof concerning the same, and for such other action on the part of said Town Board as may be required by law or shall be proper in the premises.

Section 2: The Town Clerk is hereby authorized and directed to cause a copy of the order to be published once in the Spotlight, the official newspaper of said Town, the first publication thereof to be not less than ten nor more than twenty days before the day set herein for the hearing as aforesaid and said Town Clerk shall also cause a copy thereof to be posted on the signboard of the Town maintained pursuant to subdivision 6 of section 30 of the Town Law not less than ten nor more than twenty days before the day set for the hearing as aforesaid.

Section 3: This Order shall take effect immediately.

This Resolution was thereupon declared duly adopted.

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**ACKNOWLEDGE ASSEMBLYMAN TIM GORDON'S REQUEST TO HAVE LOCAL INITIATIVE FUNDING OF \$31,304 INCLUDED IN THE 2010-11 NEW YORK STATE BUDGET FOR THE TOWN OF BETHLEHEM HIGHWAY DEPARTMENT FOR THE PURPOSE OF ROAD REPAIR, SNOW REMOVAL AND/OR THE PURCHASE OF HIGHWAY EQUIPMENT.**

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**REQUEST FROM THE CHIEF OF POLICE FOR THE BOARD TO AUTHORIZE THE TOWN SUPERVISOR TO SIGN AN AGREEMENT WITH REIGNING CATS & DOGS OF THE CAPITAL DISTRICT, INC. FOR THE SHELTER OF DOGS AN CATS TAKING IN FROM OUR ANIMAL CONTROL OFFICER.**

A motion to authorize the Supervisor to sign the 2010 agreement with Reigning Cats & Dogs was offered by Councilman Kotary, seconded by Councilwoman Dawson and approved with the following vote:

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AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary

NAYES: none

ABSENT: none

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**REQUEST FROM THE SUPERINTENDENT OF HIGHWAYS TO AWARD THE BIDS FOR VARIOUS COMMODITIES AND SERVICES.**

A motion to award the bids for various commodities and services as listed in Mr. Sagendorph's 2/17/2010 memo to the Board was offered by Councilwoman Dawson, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary

NAYES: none

ABSENT: none

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**REQUEST FROM THE SENIOR PLANNER FOR APPROVAL OF SEQR DETERMINATION OF SIGNIFICANCE AND AMENDMNET TO AN EXISTING PLANNED DEVELOPMENT DISTRICT (BPA NO. 26, PRD NO. 12) – THE EDDY VILLAGE GREEN AT BEVERWYCK, AMENDMENT 5A**

Mr. Morelli presented. This approval is for Phase V of the Beverwyck Campus project. The Town Board had approved a project for a twenty-nine thousand (29,000) sq ft addition on the site in August 2006. It was not built. The applicant had come back with a new plan and presented that plan to the Town Board in December of 2009. That plan was referred to the Planning Board for review and recommendation. The Planning Board has finished their review and submitted approval documents for the Town Board's consideration. The project has not changed since the presentation to the Town Board in December of 2009.

A motion to adopt the SEQR Determination of Significance, Negative Declaration Resolution as presented was offered by Councilman Kotary, seconded by Councilman Jordan and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary

NAYES: none

ABSENT: none

A motion to adopt Amendment No. 5A to Building Project Approval No. 26 as presented was offered by Councilman Jordan seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary

NAYES: none

ABSENT: none

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**Resolution #7**

TOWN BOARD  
TOWN OF BETHLEHEM

**RESOLUTION**  
**SEQR DETERMINATION OF SIGNIFICANCE**  
**NEGATIVE DECLARATION**

AMENDMENT NO. 5A TO BUILDING PROJECT APPROVAL NO. 26  
PLANNED DEVELOPMENT DISTRICT (PRD NO.12)

**EDDY VILLAGE GREEN AT BEVERWYCK**  
**PHASE VA**

WHEREAS, the Town Board of the Town of Bethlehem has received an application, Environmental Assessment Form and related materials from Beverwyck, Inc., A Member of Northeast Health, to amend Building Project Approval No. 26; and

WHEREAS, the proposed amendment would effect 2.37 acres of land located in the Beverwyck Planned Development District and said land was previously approved (Amendment 5/Phase V) by the Town Board on August 23, 2006 for development of a 29,504 square foot addition to the existing Terrace at Beverwyck, which included a 20-bed skilled nursing home wing and an 18-bed Alzheimer's wing (not constructed); and,

WHEREAS, said land in accordance with the Criteria for Determining Significance found at 6 NYCRR Part 617.7 received a recommendation for a Negative Declaration from the Planning Board on September 20, 2005; and,

WHEREAS, the Town Board on September 28, 2005 approved a Negative Declaration resolution in accordance with the Criteria for Determining Significance found at 6 NYCRR Part 617.7 for the previously approved 29,504 square foot addition; and,

WHEREAS, the current proposal is to develop two 10,025 square foot buildings to house 24 skilled nursing beds on approximately 2.37 acres of the parcel; and,

WHEREAS, Section 128-40(F) of the Town of Bethlehem Zoning Law contains procedures for amendments to previously approved Building Projects, and said procedures authorize the Town Board to approve such amendments upon referral to and recommendation of the Town Planning Board; and,

WHEREAS, the State Environmental Quality Review Act (SEQR) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund or approve an action until it has complied with the requirements of SEQR; and,

WHEREAS, in accordance with the SEQR regulations at 6 NYCRR Part 617.6(a), the Town Board at its meeting of December 9, 2009: (1) determined that the Building Project application constituted an "action" subject to SEQR; (2) pursuant to 6 NYCRR §617.6(b)(4) recognized the project to be suitable for an uncoordinated review; (3) made a preliminary classification of the project as an "Unlisted" action; (4) required a short Environmental Assessment Form to assist the lead agency in its determination of significance; and, declared its desire and

intent to be lead agency for SEQR review; and,

WHEREAS, the Town Board at its meeting of December 9, 2009 also referred the Building Project application to the Planning Board for a recommendation on both the application and on a SEQR Determination of Significance; and,

WHEREAS, the Planning Board at its meeting of February 16, 2010, after review of the application, the short Environmental Assessment Form and supporting materials submitted by the applicant, and the potential environmental effects of the proposal, adopted a Resolution recommending that the Town Board issue a SEQR Negative Declaration and approve the amendment; and,

WHEREAS, the Town Board has reviewed and considered the building project application, the short Environmental Assessment Form and supporting materials prepared by the project applicant; and,

WHEREAS, said application and supporting materials include, but are not limited to: (1) preliminary project plans which address site layout, utilities, storm water management, grading, and other site development factors; and (2) a short EAF Part I addressing potential environmental concerns; and,

WHEREAS, the Town Board has also reviewed and considered the Planning Board's recommendation, Town Planning and Engineering staff comments and memoranda addressing project design and potential areas of environmental concern in constructing two 10,025 square foot buildings and site improvements at the proposed location; and,

WHEREAS, the applicant has submitted materials which respond favorably to the comments and correspondence noted above, and to comments raised by the Planning Board in reviewing the application, and said materials satisfy the Town Board; and,

WHEREAS, the Town Board has conducted its own independent analysis of the application and its potential environmental effects;

NOW, THEREFORE, BE IT RESOLVED,

that based upon its review of the Building Project amendment application, the short EAF and other supporting materials submitted by the applicant; the recommendation of the Planning Board; comments on the application submitted by the Town Engineering Division and Planning Department, its own independent analysis of the application, and comparison with the Criteria for Determining Significance found at 6 NYCRR Part 617.7, the Town Board hereby concludes that approval of the application to amend Building Project Approval No.26 (PRD N0. 12) for the Eddy Village Green at Beverwyck-Phase VA constitutes an action which will not have a significant impact on the environment; and,

BE IT FURTHER RESOLVED,

that this determination is based upon the following facts and conclusions:

1. The proposed action involves the construction of two 10,025 square foot buildings to house 24 skilled nursing beds.

2. The proposal represents a decrease in density and associated impacts from the 29,504 square foot addition to the existing Terrace at Beverwyck, which included a 20-bed skilled nursing home wing and an 18-bed Alzheimer's wing previously proposed on the site and approved by the Town Board under Building Project Approval No. 26 – Amendment 5.
3. The project area consists of 2.37 acres of vacant, manicured lawn area located along Krumkill Road and Beverwyck Lane.
4. In accordance with the goals of the Town's Comprehensive Plan, the proposed project will provide additional housing options, specifically 24 skilled nursing beds for seniors.
5. Access to the project will be from an existing street: Beverwyck Lane. No public roadway construction is proposed.
6. Existing public water and sanitary sewer are available to serve the project, and the project is located within the Bethlehem Water and Sewer Districts. Project plans show the future extension of the force main along Beverwyck Lane to Krumkill Road, which currently terminates at Beverwyck Lane and Olympia Drive. The extension will improve the existing sewer system associated with the Beverwyck and Beldale sewer pump stations utilized by the Beverwyck campus. A utility easement for the sewer main will be provided to the Town by the owner.
7. The proposed project includes privately owned stormwater management facilities (bioretention areas) designed to meet the NYSDEC GP-0-10-001 requirements for treating stormwater quality and quantity. An erosion and sediment control plan (E&SCP), which prescribes construction-phase erosion and sediment controls, was prepared for the project. A stormwater pollution prevention plan (SWPPP), dated November 2009, revised January 2010, prepared by Brett L. Steenburgh, P.E., has been submitted. The applicant is required to file a notice of intent (NOI) for project coverage under NYSDEC GP-0-10-001 following any site plan approval issued for the projects. NYSDEC also requires the owner of the stormwater facilities, through a legally binding maintenance agreement, to be responsible for long-term maintenance of the stormwater facilities throughout the lifetime of the project's facilities.
8. The project will not have a significant adverse impact on wetland resources. There are no State designated wetlands in the vicinity of the project site. A June 10, 2003 letter from Ingalls, Smart Associates associated with the Phase V proposal states that there are no federal wetlands located within the site of the Phase V project. The proposed two 10,025 square foot buildings and site improvements are proposed in the same location as the previous Phase V project. Current site characteristics reflect a landscaped and manicured lawn area associated with the greater Beverwyck campus.
9. No impacts to any historic sites or structures or other cultural resources as a result of the proposed project have been identified. A Report entitled "Phase IA Literature Review and Sensitivity Assessment and Phase IB Archeological Field Reconnaissance", dated May 2003, was prepared by Hartgen Archeological Associates, Inc. to address potential impacts of the Phase V project on archeological resources. The proposed two 10,025 square foot buildings and site improvements are

proposed in the same location as the previous Phase V project. The Report concluded: “No cultural deposits or features were encountered during Phase IB archeological field reconnaissance for the APE of this project. No further archeological investigation is recommended for the proposed Beverwyck Retirement Community Phase IV and V Expansion Project.” (Note: APE = Area of potential effect.) Correspondence received from the Director of the Historic Preservation Field Services Bureau of the NYS Office of Parks, Recreation, and Historic Preservation (OPRHP) dated June 11, 2003 states that the project will have no impact upon cultural resources in or eligible for inclusion in the State and National Registers of Historic Places.

10. Trip generation information prepared for the Phase V project (18 units/beds for Alzheimer’s patients and 20 skilled nursing beds) by Creighton Manning Engineering (CME), as contained in a January 28, 2005 letter, estimates a total AM peak hour trip generation of 6 vehicles and a PM peak hour generation of 8 vehicles. Conversely, the proposed project (Phase VA) includes only 24 skilled nursing beds, significantly less than the Phase V proposal, which would result in a trip generation less than the Phase V proposal. The amount of traffic generation will be a negligible increase to area roadways. As CME states, “The inherent variation in peak hour traffic on the area roads is greater than the trip generation that can be attributed to the proposed expansion of Beverwyck. No improvements are required to accommodate the traffic generated by the proposed expansion.”
11. The project will not have any significant impact on agricultural resources. The site is not located in or near a certified agricultural district. The site is not currently used for, nor has it been used in the recent past for agricultural purposes.
12. The proposed action will not have a significant adverse aesthetic impact. The architecture of the proposed projects will be similar to the existing structures in the district and the materials will match those of the existing buildings.
13. The project will not have a significant adverse impact on noise levels in the vicinity of the project site. Noise associated with construction will be temporary and of short-term duration.
14. Review of the site in the field and with available environmental data revealed no other environmentally sensitive characteristic of the parcel, or issues that have not been addressed, or areas requiring further study.

On a motion by Councilman Kotary, seconded by Councilman Jordan and a vote of   5   for and   0   against, and   0   absent, this RESOLUTION was adopted on February 24, 2010.

**Resolution # 8**

TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK

**AMENDMENT NO. 5A TO BUILDING PROJECT APPROVAL NO. 26**  
**PLANNED DEVELOPMENT DISTRICT (PRD NO. 12)**

**EDDY VILLAGE GREEN AT BEVERWYCK**  
**PHASE VA**

Amendment No. 5A  
to B/P/A No. 26

DATE: February 24, 2010

- I. This Building Project Approval Amendment, when duly signed by the Supervisor of the Town of Bethlehem, certifies that the Town Board of the Town of Bethlehem has formally APPROVED plans for Amendment No. 5A to Building Project Approval No. 26 located within the Beverwyck Planned Development District, also known as PRD No. 12.
- II. The Planning Board recommended approval of this amendment, known as Phase VA, at its meeting of February 16, 2010 and reported its recommendation to the Town Board.
- III. At a meeting held February 24, 2010, this proposed Building Project Amendment was approved by the Town Board.
- IV. Prior to granting approval to this Amendment, the Town Board:
  - A. On February 24, 2010, adopted a resolution of Determination of Significance (Negative Declaration) in accordance with 6 NYCRR Part 617.7, for compliance with SEQRA, with respect to the proposed Building Project Amendment.
- V. The following plans and drawings have been received and approved by the Town Board as part of this Building Project Approval Amendment subject to the modifications specified in Item A-13 of the "General" conditions section of this document (paragraph VI, below):
  - A. "Eddy Village Green at Beverwyck, Phase 5A/Amendment 5A, Beverwyck, Inc., A Member of Northeast Health, 40 Autumn Drive, Slingerlands, New York 12159".
    - 2) Cover sheet, dated November 23, 2009; latest revision date January 27, 2010;
    - 3) "Schematic Floor Plan", Drawing A-1, dated November 23, 2009;
    - 4) "Schematic Elevations", Drawing A-2, dated November 23, 2009, latest revision 01-05-10;
    - 5) "Existing Conditions Plan", Sheet no. C-101, dated November 23, 2009, latest revision 01-27-10;
    - 6) "Site Plan", Sheet no. C-102, dated November 23, 2009, latest revision 01-27-10;
    - 7) "Grading Plan", Sheet no. C-103, dated November 23, 2009, latest revision 01-27-10;
    - 8) "Utility Plan", Sheet no. C-104, dated November 23, 2009, latest revision 01-27-10;

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- 9) “Stormwater Mgmt. Plan”, Sheet no. C-105, dated November 23, 2009, latest revision 01-27-10;
- 10) “Landscaping Plan”, Sheet no. C-106, dated November 23, 2009, latest revision 01-27-10;
- 11) “Bioretention Area Planting Details”, Sheet no. C-106A, dated November 23, 2009, latest revision 01-27-10;
- 12) “E & SC Plan”, Sheet no. C-107, dated November 23, 2009, latest revision 01-27-10;
- 13) “E & SC Details and Notes”, Sheet no. C-108, dated November 23, 2009, latest revision 01-27-10;
- 14) “Details”, Sheet no. C-109, dated November 23, 2009, latest revision 01-27-10;
- 15) “Details”, Sheet no. C-110, dated November 23, 2009, latest revision 01-27-10;
- 16) “Sanitary Sewer Details”, Sheet no. C-111, dated November 23, 2009, latest revision 01-27-10;
- 17) “Storm Sewer Details”, Sheet no. C-112, dated November 23, 2009, latest revision 01-27-10;
- 18) “Water Details”, Sheet no. C-113, dated November 23, 2009, latest revision 01-27-10.

Prepared by:

- a) Brett L. Steenburgh, P.E., P.L.L.C., 2832 Rosendale Road, Niskayuna, New York; and,
- b) Architecture +, 297 River Street, Troy, New York.

VI. In addition to Paragraphs I through V, preceding, this Building Project Approval Amendment has been granted subject to the following additional stipulations, which modify the “General” Section of BPA No. 26 as stated below:

GENERAL

A-1 This Approval has been granted to Beverwyck, Inc., A Member of Northeast Health, 40 Autumn Drive, Slingerlands, New York 12159, as Owner of the land constituting Phase VA of the Beverwyck Planned Development District (a.k.a. PRD No. 12) for approval of the proposed Building Project Amendment – Eddy Village Green at Beverwyck. As Owner and Developer, Beverwyck, Inc. shall be held responsible by the Town for strict observance of all stipulations contained herein, and for full compliance with all pertinent rules, regulations and specifications of the Town -- until such time as the Building Project herein approved has been fully completed to the satisfaction of the Town.

Beverwyck, Inc. may be released from such responsibility only upon written petition to the Town Board in which the reasons for a request of release from responsibility are clearly stated. Upon the granting of such a release, the Town Board may declare this Building Project Approval null and void, following which all rights herein shall cease. Should this Building Project Approval be so declared null and void, a new application for building project approval may be submitted by the new owner of the uncompleted portion of this Planned Development District.

A-2 Approval of Phase VA has been granted for the construction of two 10,025 square foot buildings to house 24 skilled nursing beds on approximately 2.37 acres within the area comprising Phase VA of the Beverwyck Planned Development District (PRD No. 12).

A-3 Off-street parking space shall be provided as shown on the approved plans and in accordance with the Town's Zoning Law.

Handicapped Parking Spaces - any required Handicapped Parking Spaces shall have a width of not less than sixteen (16) feet and a length of not less than twenty (20) feet. Spaces shall have a minimum clear width of eight (8) feet and an adjoining access aisle having a minimum clear width of eight (8) feet. Two (2) accessible parking spaces are permitted to share a common access aisle.

A-4 Construction work shall begin on this Building Project within one (1) year from the date of this approval, and this Building Project shall be completed not later than **February 24, 2012**. The Owner may apply to the Town for an extension of time beyond the starting date or the completion date specified in the event it becomes evident that, due to circumstances beyond the Owner's control, the Building Project will not be started, or fully completed, in the specified time. Such application shall be in writing and shall be submitted to the Town Board at least thirty (30) days prior to the specified starting or completion date, whichever may apply. The application shall state the reasons the starting date or the completion date cannot be met and shall also include a proposed new starting or completion date.

A-5 The establishment of the proposed Building Project within Phase VA of the Planned Development District shall be in accordance with (a) the Zoning Law of the Town of Bethlehem, (b) the stipulations stated herein, (c) the drawings, plans, maps and profiles hereby approved by the Town Board and (d) all pertinent standards, regulations and specifications of the Town.

A-6 Any private lands of others which are damaged or disturbed due to activities of, or for, the Owner in connection with the establishment of this building project shall be repaired, and the disturbed surface restored by the Owner in the same year in which such damage or disturbance occurs. Such repair, replacement or restoration work shall be completed to the satisfaction of the Building Inspector of the Town of Bethlehem. Failure to complete such work within a reasonable time may result in a suspension in the issuance of building permits for the particular building project until such work has been satisfactorily completed.

A-7 The site development of this phase of the Planned Development District including clearing operations, grading, installation of storm drains, installation of sanitary sewers, installation of water lines and installation of utilities shall be performed in a manner which will minimize the generation of dust and the erosion of soil. Should the Town Building Inspector determine that such site development operations are generating dust or causing soil erosion in excess of

reasonable limits, he shall so notify the Owner without delay. Upon receipt of such notification, the Owner shall promptly institute such remedial measures as may be necessary to eliminate or reduce to reasonable limits the generation of dust or the erosion of soil.

- A-8 The prompt and complete removal of any trash, litter, rubbish, junk, soil or similar material which is deposited, by any means, either on lands of others adjacent to this Planned Development District or within the right-of-way of an existing State, County or Town highway adjacent to, or providing access to this District -- all as a result of activities involved in the site development of said District -- shall be the responsibility of the Owner of such District.
- A-9 The disposal of waste materials resulting from the development of this Planned Development District including, but not limited to, brush, stumps, trees and discarded building materials -- by dumping such waste in existing ravines and streams -- will not be permitted. All such waste shall be removed from the Planned District to a dump approved by the proper authorities for the disposal of such material. The disposal of any brush, trees or other waste materials by open burning is not permitted by the Town of Bethlehem.
- A-10 The Town will hold the Owner named in Item A-1, preceding, responsible for the development of this building project from start to final completion, unless relieved of this responsibility by the Town Board as provided in said Item A-1. As the recipient of this Approval, the Owner will be considered by the Town to be responsible also for any acts of developers, builders, contractors, subcontractors, real estate agents, employees of the Owner, and others involved in the development of the project - which acts are in violation of provisions of this Approval. In this respect, it is suggested that the Owner provide such persons with a copy of this Building Project Approval.
- A-11 Should the Town determine that, in disregard of verbal notification by representatives of the Town, the stipulations contained herein are not being strictly observed, or that there has been failure to comply with pertinent rules, regulations and specifications of the Town or other governmental authorities having jurisdiction thereof, the Town Board shall notify the Owner in writing of such delinquencies and shall set a time limit for the rectification thereof. In the event that the time limit expires prior to such rectification, the Town Board may, after due notice in writing to the Owner, hold a hearing at which the said delinquencies of the Owner in respect to the requirements of the Town shall be reviewed. Following such hearing, upon good cause shown, the Town Board may revoke this Approval, after which all rights herein shall cease. Upon taking such action, the Town Board shall notify the Owner, in writing, of such revocation and shall specify a date on which the same shall become effective.
- A-12 It shall also be the responsibility of the Owner to enforce such restrictions contained in this Building Project Approval as may be pertinent in respect to tenants who may occupy space within this phase of the Planned Development District.
- A-13 Prior to the signing of the final plans, the **MODIFICATIONS** outlined below shall be made to the plans identified in Paragraph V, above:
- A. No modifications required.
- A-14 This Building Project Approval is further **CONDITIONED** on the following:
- A. Prior to the signing of the final plans, the Owner shall submit the following:

- 1) a Final Stormwater Pollution Prevention Plan (SWPPP), addressing comments dated February 8, 2010 from Josh Carvajal, Town of Bethlehem Engineering Division, and revised to the satisfaction of the Town Engineering Division.
  - 2) all necessary permit coverage required by NYSDEC under GP-0-10-001. In addition the Applicant will be required to provide the Town a copy of the Notice of Intent (NOI) that will be submitted to NYSDEC, as well as the acknowledgement of NOI for SPDES coverage.
  - 3) copies of the executed “Legally Binding Maintenance Agreement” for the stormwater management system.
- B. Prior to the issuance of a Building Permit:
- 1) The Owner shall submit a completed application form and engineering report for the backflow prevention device to be installed on the water supply system.
  - 2) The Owner shall submit executed copies of the proposed sanitary sewer easement, map and deed description, associated with the forcemain extension along Beverwyck Lane (after review and approval of said easements by the Town).
  - 3) The Town shall make a determination regarding the requirement for a sewage effluent grinder to be installed on the sewer lateral and/or main.
- C. Prior to the issuance of any Certificates of Occupancy, the Owner shall:
- 1) submit evidence of the NYS Department of Health’s approval of the backflow prevention device to the Department of Public Works.
  - 2) provide a letter certified to the Town of Bethlehem, signed and sealed by a Professional Engineer licensed in New York State, indicating that construction of the Stormwater Management System has been completed in accordance with the approved design document.
- D. With regard to the sanitary sewer system within the Beverwyck site, the Owner shall assume full ownership and maintenance responsibilities of all gravity sanitary sewer laterals. (The Town of Bethlehem shall retain ownership and maintenance responsibility of the sanitary force main and pump station.)
- E. With regard to the Town owned and maintained water facilities within the Beverwyck site, the Owner shall:
- 1) locate and mark all utilities on the property prior to Town work on these facilities. Except for utilities owned and marked by the Town of Bethlehem, the Owner shall hold the Town harmless for any and all damages and liabilities resulting from the Town hitting an unmarked or incorrectly marked utility during repair or maintenance activities.

- 2) be responsible for all surface restoration resulting from repairs made to the water system by the Town.
- F. Development of the project shall be performed in accordance with the Geotechnical Report, prepared by Daniel G. Loucks, P.E. Geotechnical Engineering, dated February 11, 2005, and the supporting additional geotechnical services letter, dated September 16, 2008.
- A-15 Development of the project shall be performed in a manner such that (1) soil loss due to wind and water erosion is held to a minimum, and (2) healthy trees of desirable species are protected from damage. Unnecessary removal of healthy trees shall be avoided. Appropriate measures of dust and erosion control shall be employed throughout the construction period and in conformance with the erosion control measures shown on the drawings referenced in Item V above. The Town shall reserve the right to require additional measures of erosion control during construction of the project should it determine that such measures are necessary for the protection of surface waters or for the abatement of any nuisance caused by soil erosion from the project site.
- A-16 All applicable conditions and requirements specified in Building Project Approval No. 26 shall remain in full force and effect except as amended herein.

BY ORDER OF THE TOWN BOARD

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Supervisor

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**REQUEST FROM THE SUPERINTENDENT OF HIGHWAYS TO AWARD THE BID FOR BIODEGRADABLE PAPER BAGS**

A motion to award the bid for biodegradable paper bags to Dano Enterprises was offered by Councilwoman Dawson, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary

NAYES: none

ABSENT: none

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**REQUEST BY THE SUPERVISOR TO SUPPORT THE NEW SCOTLAND HISTORICAL ASSOCIATION'S REQUEST TO SUPPORT THE TOWN OF NEW SCOTLAND'S RESOLUTION TO SAVE TWO FORMER CCC BUILDINGS WHICH ARE SCHEDULED TO BE TORN DOWN TO MAKE ROOM FOR A NEW EDUCATIONAL FACILITY FOR THE FIVE RIVERS ENVIRONMENTAL EDUCATION CENTER.**

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For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 518-439-4955.

The Supervisor said he had received a letter from Margaret Dorgan of the Historical Society and the resolution from the Town of New Scotland seeking to preserve 2 former CCC buildings which are scheduled to be torn down and have some historical significance. New Scotland has asked the Town of Bethlehem to join them in this effort to preserve these buildings. Supervisor Messina had spoken with the Friends of Five Rivers and NYSDEC with respect to any impact to the new education wing that is scheduled to be built as result of a donation to Five Rivers. No one believes that saving the buildings will have any impact on that education wing.

A motion was offered by Councilman Kotary to support New Scotland's Resolution supporting the preservation of two former CCC buildings on the Five Rivers Environmental Center property and authorize the Supervisor to send a letter of support from the Town Board, seconded by Councilman Hennessey and approved with the following vote:

Ayes: Supervisor Messina, Councilman Hennessey, Councilman Jordan, Councilman Kotary

Nays: none

Recused: Councilwoman Dawson (Board member of the Friends of Five Rivers)

Absent: none

Councilman Kotary commented that his grandfather had been a member of the CCC and would be disappointed if he didn't support New Scotland's resolution. This support is symbolic of two Town Boards and two historical societies working together for a common goal.

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## **NEW BUSINESS**

Supervisor Messina presented a resolution opposing the proposed closure of John Boyd Thacher State Park for the Board's consideration. He said the amount to be saved with this closing is about \$255,000. Thacher Park had 223,800 visitors in 2009. It is recognized as a resource for the Town of Bethlehem and other surrounding communities as well as local urban areas.

A motion to approve the Resolution opposing the closure of John Boyd Thacher State Park was offered by Councilman Kotary, seconded by Councilwoman Dawson.

Councilman Jordan asked that the Board consider expanding this resolution to include all forty-one (41) parks and fourteen (14) historic sites that are slated for closure. He said Thacher Park does serve the needs of the residents of Bethlehem and so do other parks throughout the state. In times of economic turmoil the State should not be proposing these closures. It is closing down a resource that people can afford to use on a daily basis or for a family vacation. He asked the Town Board to consider making a stronger statement. Councilman Kotary said he agreed with Councilman Jordan's suggestion. He said even though these resolutions have no authority behind them, they do send a message that the Board feels strongly about these issues. He has heard from a number of residents that are opposed to the closing of Thacher Park. He is opposed to all of the closures. He said there is a save Thacher Park page on face book that numbers 33,000 and an on line petition numbering 7,500 signatures. He would support Councilman Jordan's amendment to the Resolution.

Supervisor Messina said he would support Councilman Jordan's amendment to the Resolution.

A motion to amend the proposed resolution to include all of the state parks and historic sites that are being closed or services curtailed was offered by Councilman Jordan, seconded by Councilman Kotary and approved by the following vote:

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**For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 311-439-4955.**

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary

NAYES: none

ABSENT: none

A motion to adopt the Resolution as amended was offered by Councilman Jordan, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary

NAYES: none

ABSENT: none

**Resolution No. 9**

Resolution Opposing Proposed Closure of John Boyd Thacher State Park and Fifty-Six other New York State Parks and Historic Sites.

**WHEREAS**, the proposed 2010-2011 New York State Executive Budget recommends \$32.5 million in cuts to the operational budget of the Office of Parks, Recreation and Historic Preservation (OPRHP), representing a 20% cut over current fiscal year funding; and,

**WHEREAS**, to respond to these budget cutbacks, the Office of Parks, Recreation and Historic Preservation is preparing, for the first time in state history, to close to the public a significant number of state parks and historic sites; and,

**WHEREAS**, John Boyd Thacher State Park, located primarily in the Town of New Scotland, is among the parks slated for closure; and,

**WHEREAS**, John Boyd Thacher State Park drew 223, 821 visitors in 2009; and,

**WHEREAS**, John Boyd Thacher State Park is a resource which also serves the Town of Bethlehem and the entire Capital Region; and,

**WHEREAS**, all fifty-seven parks and historic sites provide recreational, environmental and industrial benefits to residents across New York State; and

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Bethlehem calls upon members of the New York State Legislature and the Governor to continue to fund staff and operations at John Boyd Thacher State Park, and all other State Parks and historic sites scheduled for closing, in order to maintain full and safe public access to trails, facilities and roadways, all of these cherished resources.

The foregoing resolution was presented for adoption by Councilman Jordan, seconded by Councilman Kotary and adopted by the following vote:

Ayes: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey,

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For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 518-439-4955.

Councilman Jordan, Councilman Kotary  
Nayes: None  
Absent: None

DATED: February 24, 2010

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## **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Mr. Jasinski, Bender Ln. He asked the Board if he could go back to the water district issue. He thought he heard that it didn't involve federal or state funds. He said the Town is using NYSDEC money and working in the South Albany Water district. Mr. Cansler said the work being done was on sewers not water.

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## **ANNOUNCEMENTS**

Power has been restored to those individuals who had lost it due to weather.  
NIMO has a website about power outages  
Town website now has information on winter road cleanup  
Historic Trolley tours start 3/5/10 at 10am  
5 Rivers information session on Normanskill watershed 2/25/10 at 7pm

A motion to adjourn into executive session was offered by Councilman Hennessey, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary  
NAYES: none  
ABSENT: none

A motion to join the regular meeting and the executive session and close both meetings at the end of the executive session was offered by Councilwoman Dawson, seconded by Councilman Kotary and approved with the following vote:

AYES: Supervisor Messina, Councilwoman Dawson, Councilman Hennessey, Councilman Jordan, Councilman Kotary  
NAYES: none  
ABSENT: none

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## **EXECUTIVE SESSION**

A motion to approve a PILOT agreement between Beverwyck, Inc. and the Town of Bethlehem covering the property known as the Cottages for a period of three years commencing from the payment which shall be due January 1, 2011 and ending with the payment due January 1, 2014 was offered by Councilman Kotary, seconded by Councilman Jordan and was approved with the following vote:

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**For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 518-439-4955.**

Ayes: Supervisor Messina, Councilwoman Dawson, Councilman Jordan and Councilman Kotary  
Nays: Councilman Hennessey  
Absent: none

The executive session was adjourned at 9:05 PM.

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Town Clerk