

TOWN BOARD  
MAY 14, 2008

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

PRESENT: John H. Cunningham, Supervisor  
Samuel Messina, Councilman  
Kyle Kotary, Councilman  
Joann V. Dawson, Councilman  
Mark Hennessey, Councilman  
Kathleen A. Newkirk, Town Clerk  
James T. Potter, Esq., Town Attorney

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Good evening and welcome to a meeting of the Bethlehem Town Board. Ask you to join us in the pledge of allegiance. He asked Comptroller, Judith Kehoe to lead the pledge of allegiance.

Public comment on agenda items.

Linda Jasinski asked about the Agreement with DEC on fishing on the town Parcels. Is this every Town parcel, Supervisor Cunningham stated that there are some identified Town parcels. Some examples are behind the landfill, the South Albany Park. With regards to the Open Space Planning, may we should table this or put a moratorium on it until we have all the issues laid out with the community and they have there say on it. Since there are no final plans for closing the Transfer Station and since it does you some of that land maybe we should look at how that may be affected and what we need. The Supervisor stated that DEC will be allowing fishing rights along the Onesquethaw on our Town owned property. Ms. Jasinski stated that you can do that just as a Town you do not have to enter into an Agreement with NYS. You could just allow fishing there and then at that point if you find problems with destruction and parties then you would have the option to closing it afterwards. Once you sign on with DEC you have no more control, it is also listed on the Internet as an open fishing area. Ms. Jasinski asked that this be tabled.

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Bill Kelleher said the contract with Malcolm Pirnie is about the tenth engineer we have had on the water supply since 1978. He asked if the Board thought it was about time you come out with an honest evaluation and inform the people about what is going on with the water supply or are we still having the iron curtain shut by this lawsuit. Come out and give recommendations about what happened with this lawsuit. Are we going to get raw water from the City of Albany? Are we going to go to Watervliet and get raw water from them? I think you need to clarify and give a public report to the citizens of this Town as to the exact status of the water supply.

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Bob Jasinski asked if there was a cost for the Malcolm Pirnie Comprehensive Water Supply Evaluation. Supervisor Cunningham stated it was not to exceed \$40,000.00. Mr. Jasinski stated that the Town is spending quite a bit of money on these consultants. He then questioned the setting of the public hearing on penalties for offenses, what they were. The Supervisor stated there is a specific section of the law that the current penalty is established at 60 days which allows someone that violates the offense -- which is a sign offense to a jury trial -- we are going to reduce it to 15 days.

Mr. Jasiniski then asked about the NYS DEC public fishing wanted to know how the Town was going to protect the landowners that are west or east on the creek after you have allowed the fishing rights. The Supervisor stated that DEC has contacted all the landowners along the Onesquethaw and they are working with the landowners to get easements, fishing easements along there. So some residents

have already signed up, some are planning to sign up and the Town will give fishing easements and DEC will pay us for these easements. How are you going to protect my daughter's property from trespasser's, you are going to send them down the Onesquethaw and they are not going to pay attention to a posted sign that she puts up they don't pay attention now and they tear them down. The Supervisor asked how does she protect her property now? Mr. Jasinski says she goes out and yells at them and then gets in an argument and the Supervisor stated that she has every opportunity to protect her property. We are not telling people they can go on private property, what we are doing is giving them easements to have access to fishing rights along the Town property and that is all we are doing here tonight. Mr. Jasiniski also asked that this be tabled until there is more input because it is the people of Bethlehem's land that it will affect.

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Jim Boyle a resident of Elsmere member of the Trout Unlimited Group we have been working with DEC for sometime on a number of projects related to the Onesquethaw Coeymans Water Shed and public fishing access is one element of it. The question of posting the landowner has every right to post there property and if someone trespasses they should call the listed number for the environmental conservation officer and they will come and intervene. He stated that he has spoken with the ECO and there is no question they will respond to any complaint of trespassing and bring it as far in the legal system as the landowner wishes. The view that the Onesquethaw is going to draw masses of people is a bit over stated. The Onesquethaw is what is characterized as skinny water, nice little creek. You are probably going to get mostly local folks fishing that water whom have not trespassed if you will. With regards to involving the State you are able to make use of the State funds and resources available so that this can be a cost free and a safe access. The issue of the safety around the transfer station has been discussed and they do not wish to go across the transfer station land. Landowners have received individual letters from DEC with contact information to speak to the Region 4 Fishing Access Coordinator.

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Linda Jasiniski said they have received letters from DEC, but every season she still has to kick people off her land which is posted. She said she has it visibly posted and has heard every story in the world from - I am a state worker to I can fish any where I want to. I have gotten into arguments with them, I have called the police and don't even bother calling DEC because when I had an injured deer in my yard it took them 3 hours to get there. So she does not expect that they are going to get there for some fishing violation and trespassing. She said the Town police are not much better because they have said -- well I didn't see anybody. She did state that she is concerned about her quiet enjoyment of her land and her property and posted signs do not mean anything.

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Marie Capone asked about the Emergency Management Plan and if the Town lost power what are people to do.

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Mike Waldemaier asked about DEC using the park property that closes at 8 PM which is gated and I don't think we have given any grants out that are only for Town residents. The Supervisor stated the park will not be open to other residents but the fishing access will be so they will be able to go down and fish along the Onesquethaw but they will not be allowed to use the park. Mr. Waldemaier asked if there will be separate parking? The Supervisor stated that it will be the same as the Henry Hudson Park where people can go down and launch the boats but they are not suppose to use the park.

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Robert Jasiniski asked how much is the Town receiving monetarily in money for the fishing rights that the Town will be giving up? The Supervisor stated that there is a schedule based on the amount of shoreline and the number of feet and the pay per foot and it is around \$10,000.00. Mr. Jasinski and where will this money

go? The Supervisor stated that it will go in the General Fund. Mr. Jasiniski then asked if he found the exact figure? Supervisor Cunningham stated that the total estimated Package was \$13,800.00.

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The first item on the agenda was to approve the Town Board Minutes of March 26, April 9, and April 23, 2008.

The motion was made by Mr. Kotary and seconded by Ms. Dawson to approve the Town Board Minutes of March 26, April 9, and April 23, 2008. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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The next item was a presentation by Superintendent Vicki Wright from the Ravena-Coeymans-Selkirk Central School District who was in attendance to give a presentation on their 2009 budget. The budget is in the amount of \$41.9 million dollars which represents a 2.17 percent increase in spending and that translates into 2.64 increase on the tax levy. The residents of Bethlehem will see a 1.91 percent increase in the tax levy, which is the lowest it has been in the district for about 6 years now. The budget advisory committee was made up of Town leaders, parents residents, and anyone that wanted to participate from the four Towns. They came, looked at last years budget, this year's budget and made recommendations. Those recommendations were incorporated into the 2009 budget. Considering the small increase in the budget the new item was ordering about 200 new computers. There was a moratorium 3 years ago when the budget spiked up high and we cut back on purchasing hardware and software for 3 years and it is now going back into the budget. So this year they are spending \$213,000 on 200 new computers and next year will be the same. Increasing the reading program at both elementary schools. Plus here is where some of the savings were found. The electricity and natural gas spending has been cut by \$101,000 thanks to energy conservation initiatives in the buildings. \$300,000.00 has been cut in private school tuition. \$300,000.00 has been cut with the end of payments on a 2003 early retirement incentive offered to teachers.

Councilman Hennessey stated he felt that the numbers were very positive and want to know about performance and how the programs were going to improve from last year to this year. Ms. Wright stated that they have been doing very well on the New York State Report Card. There was a clinch on a sub group and there is an improvement plan in place for that sub group. They have increased the number of students who are reading by third grade by 11% and the pre-k program which is really now focusing on pre-literacy skills, our regents scores have gone up, we have met the mark for ELA at the junior level; an outstanding level increase in how the students are performing in biology. At the 8<sup>th</sup> grade level the ELA scores and Math scores are continuing to climb and overall except for that one sub-group we are doing very well.

Councilman Messina asked about the Tech Valley. Ms. Wright stated that the student Mr. Bagley stated that it was the best thing that has ever happened to him. He is a very hands on technology orientated student and he stated that he is learning in a way that makes sense to him. This program is all lottery driven.

Councilman Kotary asked about the energy conservation. Ms. Wright stated that they hired Matt Miller as their Energy Manager and he makes very thorough and consistent visits to the buildings. She said they did some cut backs of the temperatures which resulted in savings.

Ms. Wright thanked everyone and stated she hoped to see everyone on the 20<sup>th</sup>.

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Supervisor Cunningham stated that there was an item relative to the Van Dyke Spinney project and one is not listed on the agenda but it has to be approved before we move on to the second item. The first item is a request from Michael Morelli, Assistant Director of Economic Development and Planning Department for approval of Reservation of Parkland Fees for the Van Dyke Spinney Project.

The motion was made by Mr. Kotary and seconded by Mr. Messina for the approval of Reservation of Parkland Fees for the Van Dyke Spinney Project as requested by Michael Morelli, Assistant Director of Economic Development and Planning Department. The motion was carried by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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The next item is request from the Michael Morelli, Assistant Director of Economic Development and Planning Department for the Proposed Planned Development - Van Dyke Spinney.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey for the Proposed Planned Development - Van Dyke Spinney as requested by Michael Morelli, Assistant Director of Economic Development. The motion was carried by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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The next item was a request from Robert Leslie, Senior Planner to accept an application in accordance with the Resolution for Dreamfield Estates, Jolley Road, Glenmont dated May 14, 2008. He said that is the application which is in the Town Board Members folder.

Presentation from Wade Coton for Dreamfield Estates and this will consist of Townhomes and single family homes. The single family home 2,800 – 3,200 square foot expected price range at that time \$400-\$500,000. That sub-division application was halted by the Town wide building moratorium. When we came out of that in 2005 the housing market has changed since then and some of the expectations and the Comprehensive Plan for the Town of Bethlehem has change so it meant changes. As a result, more affordable housing in the Town of Bethlehem. There were several changes, meetings with Mr. Leslie Designs that meet the requests and style and what would be best product for the Town. The project itself the biggest difference in the PDD from the initial application has to be the significant decrease in the amount of Town roads and utilities. The only Town road and utilities that would be required on this PDD is basically the extenuation of the exiting of the existing Jolley Road. This encompass about 1,800 linear feet and the original proposal had over 10,000 linear feet of Town road and utilities. At the end they will provide a stub street, which will provide for any the potential or possibility of future development. One area would be entry level Townhomes in the range of about 1,400 square feet with a one car garage with a price under \$200,000 more or less. Another area would consist of four or five different Townhome styles 1,500 – 2,000 square feet and cost \$225,000-\$275,000. There is an existing pond on the property and proposing to leave that as is and show improvements around it possible a walking trail and benches. The courtyard homes will range 1,800 – 2,400 square feet and cost \$270,000-350,000.

Councilman Messina asked about the traffic noise from the thruway since it was so close. Mr. Coton stated that they would be planted berm between the properties there is also a buffer in the PPD of 50 feet that is going to circumference the whole PPD itself from the property line back.

Councilman Hennessey asked about the amount of traffic that will be generated from this housing development. Mr. Coton stated it would be a decrease in traffic than the initial proposal because they figure that there will be quite a few retirees and snowbirds not around for the winter also a lower number of school age children which would have both less impact on traffic but less impact on the school district as well. Mr. Hennessey stated he would be looking at the change going forward.

The motion was made by Mr. Kotary and seconded by Ms. Dawson to accept the application in accordance with a resolution for Dreamfield Estates, Jolley Road, Glenmont, dated May 14, 2008 as requested by Robert Leslie, Senior Planner, and to refer the application to the Planning Board. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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Tom Andres then explained that it has a prediction of 161 vehicles trips a combination of in and out for the PM peak. This project consists more of the townhouses than the single-family townhouse generates about half of the traffic of a single family. As we progress through the planning process we will be hiring a traffic consultant to do an actual traffic count to look at the intersection and see how that is affect by it.

Councilman Kotary stated that there are a considerable number of units and a lot of green space it would be great to work with the Town for things like sidewalks and being able to connect families, pedestrians, and bicyclist to the other side of the thruway. Mr. Andres stated that they have incorporated sidewalks through the development out through Glenmont Road. Supervisor Cunningham asked that the PPD be explained.

Mr. Morelli explained that when the Town Board approved the Comprehensive Plan and then subsequently approve the Zoning Code in 2005 they included in the Zoning Code a Planned Development District Zoning. This is a floating zone and it also allows you apply it where you see fit. The process is to submit the application for you acceptance tonight not your approval of it then that would allow them to go to the Planning Board for a more extensive review. Then the Planning Board would then make a recommendation back to this Board. The Board would then hold a Public Hearing and then consider the Application. If at the end of that process the Town Board approves the PDD they then have got to go back to the Planning Board and get specific site plans or subdivision approval whatever the case may be.

Councilman Hennessey asked if the demand is great for this grouping of products. Mr. Andres said with the population getting older, people are looking for a lower priced house and the young couple can no longer afford the starter home -- the colonial but either need to go back to renting or a town home or a condo until such time as they can move up to a house.

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The next item was a presentation of the Interim Financial Report from Comptroller, Judith Kehoe, for the first quarter of 2008, ending March 31<sup>st</sup>.

Comptroller Kehoe stated this is the first report where there is an opportunity to see how well they did on putting together the 2008 budget and see how the actual compares. She said the executive summary -- all four funds are going to be based on current projections, as good as budget or better than budget. She said as is typically the case, there are some areas that are better than she expected and there are others that are a little below. She said because the Board has approved fairly conservative budgets, the Town does manage to land on its feet. She said it is early in the year and things can change but again she is confident with the conservative projections that the Town should be okay.

Mrs. Kehoe said the highlight is always the sales tax – that is the figure we tend to have the most uncertainty due to the economy – was budgeted to receive about \$2.4 million per quarter and the first quarter receipt was about \$2.5 million dollars. She said that is about \$100,000 ahead of the quarterly estimate which is one of the positives. She said presumably that increase is due to the rising fuel costs, probably the cost the Town is paying with the increase in the fuel overshadows that increase in the sales tax but it is all connected.

Mrs. Kehoe continued the fund balance in the general fund was budgeted to use about \$875,000. Based on the projections at this time, she said it looks like they will be just under \$700,000 so if those sales tax figures hold and the mortgage tax estimates were conservative that should be a positive. She said again as they get to the second quarter report she will have firmer estimates.

Mrs. Kehoe said interest income is below budget with rates falling a little more than expected. She said she has been bidding out the CDs more aggressive and the rates have picked up a little bit. She said last week she was able to get some 2.4 and 2.5s on those. She said she is hoping as the year progresses that she might be able to ease back on what looks like a shortfall there.

Mrs. Kehoe said some good news for the Highway Fund. She said Highway Superintendent Sagendorph received word from the State that the CHIPS funding – that is the Consolidated Highway Improvement Program aid – is going up to about \$247,000 from \$203,000. She said that was a welcome increase.

Comptroller Kehoe noted the reports that are presented are the detailed reports for all funds. She said she hoped the Board had an opportunity to review them and asked if there were any questions.

Supervisor Cunningham asked if there were any questions. Councilman Messina said just one comment. Relates to this Judi and toward our upcoming budget meetings that will happen soon and he knows that he and the rest of the Board Members are always pleased to see that we are in good shape on the fund balances. He said exceeding 15 percent, that is a general guideline but he thinks he will try and keep in mind is as we go forward from last year to this year there have been decreases in all of the fund balances which they planned for but still something important to be considered in the future. He said this report serves a lot of good purposes he thinks. He thanked Comptroller Kehoe. Mrs. Kehoe thanked Councilman Messina.

Councilman Dawson asked the Comptroller if in regard to the study they are involved in with Albany County in terms of sharing in the health insurance program if she has any predictions about when they may see that study. Comptroller Kehoe said the rfp has just been issued by the County on the study for the consultant that is going to do the feasibility analysis. She said there are many, many details that need to be worked out. She said when you are trying to reengineer health insurance benefits you want to make sure that you have the comparable benefits across many different plans. She said it is going to take time to complete that study. She said realistically she would not expect to see results on that until late in this year and implementation after that. Councilman Dawson said perhaps not even in time for their workshops for 2009. Mrs. Kehoe said she would be surprised, noting more of a 2009 item.

Comptroller Kehoe said it is in the works so she has been working aggressively with our broker on that and there are some nice savings on the health insurance costs relative to the retiree health insurance. She said they are continuing to look at that and get what savings can be obtained without compromising the quality of the underlying plans. Mrs. Dawson thanked Comptroller Kehoe.

Supervisor Cunningham thanked Comptroller Kehoe.

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The next item was a request from Deputy Commissioner of Public Works, Erik Deyoe, to increase allowable water taking from the New Salem Wells as follows:

1. Resolution to establish Town Board as Lead Agency. The following resolution was presented for adoption:

**RESOLUTION NO. 22**

**ESTABLISHMENT OF SEQR LEAD AGENCY**

For the

**TOWN OF BETHLEHEM - WATER SUPPLY IMPROVEMENT PROJECT**

WHEREAS, the Town Board intends to increase the allowable water take from New Scotland Wells No. 1 and No. 2, from 0.4 million gallons per day (MGD) to 1.13 MGD for the Town; and

WHEREAS, this project is Unlisted action pursuant to the State Environmental Quality Review Act (SEQR) and therefore subject to the regulations of that law (6 NYCRR 617); and

WHEREAS, the Town Board has conducted coordinated review with the involved agencies pursuant to 6 NYCRR 617.6 and no agencies objected to the Town Board's request to act as Lead Agency;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board declares itself Lead Agency pursuant to 6 NYCRR 617.6.

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

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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2. Resolution to adopt negative declaration. The following resolution was presented for adoption:

**RESOLUTION NO. 23**

**SEQR DETERMINATION OF NON-SIGNIFICANCE**

For the

**TOWN OF BETHLEHEM – WATER SUPPLY IMPROVEMENT PROJECT**

WHEREAS, the Town Board has been established as Lead Agency in accordance with 6 NYCRR 617.6; and

WHEREAS, the Town Board has reviewed the potential impacts identified in the Full Environmental Assessment Form (EAF) and has determined that no significant impacts are likely to occur as a result of the project;

NOW, THEREFORE, BE IT RESOLVED, that a Negative Declaration shall be issued for the project in accordance with 6 NYCRR 617.7; and

BE IT FURTHER RESOLVED, the attached Negative Declaration is to be filed and published in accordance with 6 NYCRR 617.12.

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

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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3. Authorize the DPW to increase the allowable taking subject to the NYS DEC approval and conditions. Supervisor Cuningham asked for a motion.

The motion was made by Mr. Hennessey and seconded by Mrs. Dawson to authorize the increase in allowable taking subject to the NYS DEC approval and conditions in regard to the New Salem Wells as requested by Deputy

Commissioner of Public Works, Erik Deyoe. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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The following item was a request from Erik Deyoe, Deputy Commissioner of Public Works, to authorize Supervisor Cunningham to enter into an Agreement with Malcolm Pirnie for a Comprehensive Water Supply Evaluation.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to authorize Supervisor Cunningham to enter into an Agreement with Malcolm Pirnie for a Comprehensive Water Supply Evaluation.

Councilman Hennessey said he saw and read the Memo but his question whenever you go into these kinds of contracts is there a per hour cost, a schedule attached to it. He asked if those were things that could be provided. Mr. Deyoe said he could, noting this is a not to exceed contract of \$40,000. He said they are going to do it on an hourly basis. He said there is a schedule of rates which he can provide. Councilman Hennessey thanked Mr. Deyoe.

Councilman Kotary asked Mr. Deyoe to give a quick overview of why this request has come forward and what this study will do for the Town. Mr. Deyoe said this is a study that is an extension of the study done with Malcolm Pirnie about 2 years ago. He said originally they were looking at water supply options for the Clapper Road plant both the option of utilizing the existing well field and implementing a pre-treatment system to treat the water or to take raw water from the City of Albany, Albany Water Board more appropriately, there was an economic analysis of those 2 alternatives. He said since that time, the environment somewhat changed. He said the Town has been approached by other communities to buy water, had the increase just voted on at the wells and it is appropriate for them to look long-term at how we address the long-term water demands. He said that is the point of this project.

Town Attorney Potter asked about the time horizon that this study contemplates. Mr. Deyoe said a 4 to 6 month time period, noting there are some internal workshops to go through to short list a series of options. He said they are going to look back at some old studies done by other consultants and then begin to sharpen the pencil to evaluate them. Mr. Potter asked about the time horizon that Malcolm Pirnie would analyze in terms of our water needs – he said over how many years would they project. Mr. Deyoe said they are projecting out to the 2040 which was the original time horizon used in the other study.

Supervisor Cunningham asked if there were any other questions. There were none and he thanked Mr. Deyoe.

Councilman Hennessey said he has read some of the studies that have been done and they anticipate particular numbers in terms of population and things like that. He asked how in comparison to those studies does this show that the study results were accurate. Mr. Deyoe said that is a tough question to answer because they get census data with respect to population so it is in 10 year blocks. He said they did look as a model for increasing the demand over time, they looked at primarily CDRCP's demand growth projections. He said one can argue whether or not they are appropriate. He said demand is a bit of a crystal ball look in that per capita we are using more water than we have historically so whether it is appropriate to utilize the growth in population as the increase is probably debatable but they did come to some agreement internally about what the appropriate numbers were before. He said they can certainly give that data which he does not have with him but he can get that to the Board.

Town Attorney Potter asked on time horizon, they have an agreement with Earth Tech that provides a guarantee of well yield down at the field and that

agreement predates everybody on the Board. He asked what the time horizon is on that, indicating he thought 13 years. Mr. Deyoe said that is 13 ½ years on the original agreement and he thinks there is some debate on where the start date really was but conceivably based on their numbers it is around 2020 would be the end horizon on that. Town Attorney Potter then asked if the Pirnie study would go out to 2040, 20 years beyond the guarantee beyond the guarantee on that well field. Mr. Deyoe said that was exactly correct and noted they are looking beyond the term of the existing agreement with the Albany Water Board for finished water. He said that agreement ends in 2023.

Supervisor Cunningham asked if there were any other questions. There were none and he thanked Deputy Commissioner Deyoe.

The motion was passed by the following vote:

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

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The next item was a request from Deputy Commissioner of Public Works, Erik Deyoe, for Release of Letter of Credit for Willow Estates Subdivision.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve the release of Letter of Credit for the Willow Estates Subdivision as requested by Deputy Commissioner of Public Works, Erik Deyoe. The motion was passed by the following vote:

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

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The following item was a request from Town Engineer, Erik Deyoe, for acceptance of easements for River Road and Beaver Dam Road, Selkirk.

The motion was made by Mr. Kotary and seconded by Mr. Messina to approve the acceptance of easements for River Road and Beaver Dam Road, Selkirk from Kathine McCloskey, Selkirk, New York as requested by Town Engineer, Erik Deyoe. The motion was passed by the following vote:

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

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The next item was a request from Erik Deyoe, Town Engineer, for acceptance of right-of-way easement for 48 Wildwood Lane, Selkirk.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve the acceptance of deed for right-of-way easement for 48 Wildwood Lane, Selkirk, from George and Sandra Syrett, Selkirk, New York as requested by Town Engineer, Erik Deyoe. The motion was passed by the following vote:

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

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The following item was to schedule a public hearing regarding amendment to Section 128-83 of the Town Zoning Code dealing with penalties for offenses for June 11, 2008 at 6:00 PM.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve setting a public hearing to consider proposed Local Law amending Section 128-83 of the Town Zoning Code dealing with penalties for offenses for June 11, 2008 at 6:00 p.m. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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The next item was a request from the Highway Superintendent, Gregg Sagendorph, and Administrator of Parks and Recreation Department, Nan Lanahan, to authorize the Supervisor to enter into a cooperative Agreement with NYS DEC to allow public fishing on Town parcels.

The motion was made by Mr. Messina and seconded by Mr. Kotary to authorize the Supervisor to enter into a cooperative Agreement with NYS DEC to allow public fishing on Town parcels as requested by Highway Superintendent, Gregg Sagendorph, and Administrator of Parks and Recreation Department, Nan Lanahan.

Councilman Messina wanted to acknowledge that he did hear what Ms. Jasinski said about this issue and respects that and certainly the rights of the adjacent homeowners but in many of these situations it seems to him are an enforcement matter and he knows it is difficult to get full cooperation with that. He said the problem of people going on land where they don't belong is the people going on land where they don't belong. He said he has seen in his time with New York State government many fishing access opportunities open up. He said he is very supportive of the State and local governments working together to achieve these sort of things. He said at least he may not be much of a fisherman but he has fished a lot. He noted there is a difference.

Mr. Messina said these sort of sights don't draw a lot of cars, fisher persons. He said even at 10 Mile Creek, the Catskill Creek which are in a way more productive trout streams don't draw very much. He said Saturdays, Sundays you can get out there and not see a car parked.

Councilman Messina said he would also like to acknowledge Jim Boyle because like many of the things we sometimes get, citizens in our Town involved in clubs, involved in associations and they bring these ideas forward and he thanked Jim for that.

Councilman Dawson asked what the downside would be of tabling this until the open space group had more time to explore this proposal. She said she was uncomfortable passing this tonight until they have more study on it. Supervisor Cunningham said he guesses basically there is a situation currently where fisherman come in and use our land to fish. Mrs. Dawson said she understands also the season is already in progress. Supervisor Cunningham said what it does, it posts it so that it identifies it as a specific fishing access area and provides the Town some revenue for doing something that we are currently doing. And, he said DEC has agreed to come in and establish some parking areas and put up some fencing. So for example, the Supervisor explained they can keep people out of the Transfer Station area and route them directly back to where the access is allowed.

Supervisor Cunningham said his other thought regarding this is by doing this, they may also eliminate some of the trespass issues because it will clearly identify to fishermen where they can fish and provide the residents that don't want people fishing along there that will tell them where they cannot fish. He said there are residents along the property where we have behind the Transfer Station that are already working with DEC to provide that access also. He said the access is only, he thinks, it is 10 or 12 feet from the middle of the... 33 feet from the middle. He said it is an easement, basically a right to fish for anywhere from 33 feet of the middle of the stream. He said it would not be an open space issue. He said he thinks it is not something they will be dealing with. He said it is something that he

has supported and worked with Trout Unlimited and DEC on this. He said they have gone out and seen things. He said he would like to continue on and support it.

Councilman Hennessey asked if there are people fishing on there now. Supervisor Cunningham said there are. Mr. Hennessey noted they are doing it illegally then. Supervisor Cunningham said people access the Onesquethaw through the South Albany Town Park and also through the landfill on the weekends. Mr. Hennessey asked if the Town is currently required to enforce non-trespassing on the creek. Supervisor Cunningham said the Town Park would mean going down and identify non-residents and kick them out and be back in the back of the Transfer Station. He said it is a long way from the road back into the Onesquethaw. He said they can also access it through other people's property to get to that area.

Councilman Hennessey asked if by taking this action, enforcement would be the responsibility of DEC at that point or still the Town's. Supervisor Cunningham said what it would do is eliminate any enforcement requirement from the Town because the Town would be saying that people are allowed to come in and fish on our property. He said the enforcement issues for private property owners who do not want people fishing there would not change from what currently exists.

Councilman Hennessey then noted that the creek's purpose is for fishing and those kinds of things would be DEC's issue to enforce. Supervisor Cunningham said this was correct.

Councilman Kotary said he had a question and indicated he did not know if Councilman Messina could answer the first question. Mr. Kotary asked what the fishing season is, kind of to Councilman Dawson's questions, are they fishing now or when. Supervisor Cunningham said April 1<sup>st</sup> starts the fishing season. Councilman Kotary asked if it was spring – April, May – kind of right in the middle of it. Councilman Messina now right through October.

Councilman Kotary asked about the Onesquethaw, indicating he could be corrected along the way, has some unique features to it. Supervisor Cunningham said it has a native trout population that is not populated. He said it has deep holes along it so as the stream dries up, there are still pockets where people can fish. He said he is told it is one of the greater fishing spots in the area. Councilman Kotary said he would like to echo Mr. Messina's comments, and appreciate Mr. Jasinski and Ms. Jasinski's comments. He said again he thinks where there is public lands and where people are able to fish on public lands, this seems to be the way to do it – through this agreement. He said he thinks it makes a lot of sense and as Mr. Messina said, if people are trespassing, they should not be regardless of whether or not they approve this. He said he believes this is a separate issue which would have to be enforced. He said there is an access point where he would assume DEC will be directing people from the parking lot and there is a little dotted path on the map which is right along our property. Supervisor Cunningham explained the Rupert Road Transfer Station there is an abandoned rail bed that runs back from Rupert Road all the way back into the location where the Onesquethaw crosses our land. He said that will be establishing access and what probably will be done is establish with DEC parking outside this transfer station and put fence around the station so that people stay out of there. He said it will give them a direct route back into the area. He said basically this will keep people off of areas that they should not be and direct them to where they should be. He said the real goal is to fish.

Councilman Kotary said exactly, so the parking and access to and then the area where folks will be fishing is all within Town property. Supervisor Cunningham said this was correct. He said the other area will be at the South Albany Park which already has a parking lot, a park there and all it would do is establish that as a location where people can park and fish.

Councilman Dawson asked about the parcel listing that identifies a combination of properties and improvements that would be done for the total price of \$13,800 and who will be doing the improvements – the parking, the footpath –

the Town or DEC. Supervisor Cunningham said DEC will do that. Mrs. Dawson said they have a commitment and asked if they have the funds to do that. The Supervisor said they have the funds to do it and in his discussions with them, they told the Town they will come in, the Town will need to identify where the cars should park and where the path should be and they will do that.

Mrs. Dawson said some area projects, DEC does not seem to quite find the money to come across with projects that have been committed to. She said she understands that and it is a State agency and things are tight right now. Supervisor Cunningham said yes, they are. Councilman Kotary said he saw the Commissioner yesterday and they were talking about his fishing and his love of fishing. So, he said he would guess that he would find the resources for it. Mrs. Dawson said the Town does the improvements. The Supervisor said DEC will do the improvements for the Town.

Supervisor Cunningham asked if there were any other questions. Councilman Hennessey said DEC brings a great deal of resources to a project like this and he thinks overall you are looking at something that may actually in its own way improve the property. He said it is sad that it impacts homeowners and landowners in the area and he thinks Ms. Jasinski has every opportunity to sell or not to sell the rights in any way she may want. He said the other landowners have the opportunity to do that as well. He said he does think there is an overall improvement by the movement of this land from one possession to another. That's it.

Supervisor Cunningham thanked Mr. Hennessey. He said it is not normally the time to make public comment but he would recognize Mr. Jasinski. Mr. Robert Jasinski thanked the Supervisor and noted if the Board is going forward with the project, one of the things he cautioned about – noting he could not look at the maps – but as he understood it, asking if they will be going in from Rupert Road with just a trail or with a regular driveway. Supervisor Cunningham said the design has not been specified yet but the discussions held with DEC was that there would be parking established outside the Rupert Road Transfer Station to the left and then the trail would come up through the wooded land and cut over behind the transfer station and go back on the rail bed to the bridge. Mr. Jasinski said he would suggest that the Town keep the rights to distinguish just where this trail would run so that you are not cutting a bunch of the wooded area or something like that. He said if DEC comes in and they want a wide driveway in there, he cautions to make sure that the trees are not taken down. Supervisor Cunningham told Mr. Jasinski he is singing to the choir because he agrees. Mr. Jasinski said that was why he was cautioning the Board. The Supervisor said all access will be from the road by foot. He said there is no driving back in there. Mr. Jasinski thanked the Supervisor.

The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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The next item was a request from Director of Emergency Management, John Brennan, to accept the Town of Bethlehem Comprehensive Emergency Management Plan. Supervisor Cunningham said Mr. Brennan has worked extensively putting together an Emergency Management Plan. He said a copy has been distributed and this request is to accept the plan.

The motion was made by Mrs. Dawson and seconded by Mr. Messina to accept the Town of Bethlehem Comprehensive Emergency Management Plan as requested by John Brennan, Director of Emergency Management. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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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. Kotary and seconded by Mrs. Dawson to approve the appointment of seasonal personnel as listed in the Memorandum dated May 14, 2008 from Nan Lanahan, Administrator, Parks and Recreation Department, at the titles and salaries listed. The motion was passed by the following vote:

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

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The next item was to acknowledge notification from Chief of Police, Louis Corsi, of the retirement of First Sergeant Paul F. Roberts effective May 30, 2008. Supervisor Cunningham noted Sgt. Roberts has served on the Bethlehem Police force for 30 years. The Supervisor wished Sgt. Roberts well.

The motion was made by Mr. Hennessey and seconded by Mrs. Dawson to accept the retirement of First Sergeant Paul F. Roberts effective May 30, 2008. The motion was passed by the following vote:

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

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The following item was to acknowledge receipt of the Quarterly Franchise Fees from Time Warner Entertainment-Advance/Newhouse Partnership for the period January through March 2008 in the amount of \$113,442.26.

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Supervisor Cunningham asked if there was any new business from the Board. There was none.

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The Supervisor made the following announcements:

- Acknowledged Household Hazardous Waste Day that was held at the Town Highway Garage. The turnout was the highest the Town has had and it was a very successful day. He noted he and Highway Superintendent Sagendorph will come up with some improvements. He congratulated the Highway Department on a job well done.
- Friday, May 16, 2008 is Bike to Work Day and encouraged those able to do this. He noted parking is available at the CDTA lots on Delaware and the Delmar Bypass. He also noted there will be leaders for the groups and the police will be on hand to protect the people.
- Saturday, May 17, 2008 is Community Clean Up Day. He said everyone will meet at Geist's garage to do pickup along Route 9W and the Bypass to Kenwood Avenue.
- Since this is the last meeting before Memorial Day on May 26, 2008, he noted the Parade will start at Elsmere Avenue and West Poplar Drive at 11 a.m. and conclude at the Veteran's Memorial Park at noon.
- School budget votes take place on May 20, 2008. BCHS voting will take place at the High School from 7 a.m. to 9 p.m.

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The following item was public comment on non-agenda items. Mrs. Marie Capone said when the retirement of Sgt. Roberts was read did it remind the Board that she has asked the Board to increase the force of the Police station. She said they are short there and we need them more than anybody on this side. Supervisor Cunningham noted he rode with the Police yesterday and noted they were chasing a criminal at Price Chopper.

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Mr. William Kelleher said a little bit of history in answer to Mr. Hennessey's question. He said back in 1994 all the Town residents were promised 12 million gallons per day of excellent quality drinking water that would last us until the year 2040. He said what was best of all, the 6 million gallons a day... the initial appropriations would be paid for entirely by industry. He said we would not have to pay a cent. He said the Town could then tell Albany that we didn't need their water any longer.

Mr. Kelleher said there were a lot of projections at that time. He said the Town had infinite amount of water, in fact, one resident wanted to sell it to the City of Albany. He said all of that blew up in the Town's face. He said he would like to remind the Town again, as he has done many times before, look at history. He said the history of the water supply especially but also down there at Schermerhorn Island and Henry Hudson Park look at the past history. He thanked the Board. Supervisor Cunningham thanked Mr. Kelleher.

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Supervisor Cunningham asked if there were any further comments on non-agenda items. There were none.

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

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

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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The motion was made by Mr. Messina and seconded by Mr. Kotary to adjourn the regular Town Board meeting at 7:25 p.m. The motion was carried by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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Town Clerk

### EXECUTIVE SESSION

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to authorize the Supervisor to sign a Consent Order with the New York State Department of Environmental Conservation relative to the New Scotland Water Plant. The motion was passed by the following vote:

Ayes: Mr. Cunningham, Mr. Messina, Mr. Kotary, Mrs. Dawson, Mr. Hennessey.

Noes: None.

Absent: None.

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