

TOWN BOARD
JANUARY 14, 2009

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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Supervisor Cunningham welcomed everyone to a regular meeting of the Bethlehem Town Board. He asked Mr. Kotary to lead the pledge of allegiance and invited everyone to join them. He thanked Mr. Kotary.

The Supervisor said the first item was for public comments on agenda items. He asked if anyone had any comment. Mr. William Kelleher, 182 Roweland Avenue said one of the items was the original pumps that were placed in the infiltration gallery. He said he is in complete agreement that they should be replaced. He said it is a wonder that they lasted this long to be quite frank. He noted he gave each Board Member a copy of a Memorandum. He read the first and last paragraph and noted the material in-between was more for the Deputy Commissioner and Commissioner of Public Works. He said it is technical matters.

Mr. Kelleher said the last paragraph refers to the lawsuit. He supports the replacement of the pumps in the infiltration gallery. He asked if there were any questions. There were none. The Supervisor thanked Mr. Kelleher.

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Supervisor Cunningham asked if there were any other comments on agenda items. There were none.

The Supervisor noted moving forward, the next item was the public hearing to consider a proposed local law.

HEARING BEGAN: 6:05 p.m.

SUPERVISOR CUNNINGHAM: Public hearing to consider a local law amending the Code of the Town of Bethlehem pertaining to the rezoning of 99-111 Corning Hill Road, Glenmont. First I would like to request a motion to waive the reading of the Call of the Hearing, indent the Notice of Public Hearing and Affidavit of Posting in the minutes.

The reading of the call of the hearing was waived with direction to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting by Mr. Messina and seconded by Mr. Kotary. 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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TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Town Board of the Town of Bethlehem on the 14th day of January 2009 at 6:00 p.m. to consider a proposed Local Law Amending the Code of the Town of

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

Bethlehem, Chapter 128, Article III, Section 128-13, Zoning Map, pertaining to the rezoning of 99-111 Corning Hill, Glenmont.

All interested persons and citizens will have an opportunity to be heard at the said hearing.

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who are in need of assistance in order to participate should contact the Town Clerk at 439-4955, Ext. 1183. Advanced notice is requested.

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

STATE OF NEW YORK) SS:
COUNTY OF ALBANY)

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and the attached Legal Notice was published in the Town's legal newspaper, The Spotlight, on December 31, 2008 and that I posted the Notice of Public Hearing on December 31, 2008 on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/Kathleen A. Newkirk
Town Clerk

Sworn to before me this

31st day of December, 2008.

/s/ Julie McNeil

Notary Public

SUPERVISOR CUNNINGHAM: Michael, did you want to do a brief presentation on what we are doing here?

MR. MORELLI: We are talking about a rezoning. The properties in question -- there are 5 properties. It totals about 6.1 acres of land. It's at the top of Corning Hill Road adjacent to the Cumberland Farms gas station which was formerly the Big M truck stop. There are 4 property owners who are interested in having their property rezoned to something other than Residential A. We think given its proximity to Route 9W and the commercial zoning which is the orange on the aerial map that a commercial hamlet zone might be an appropriate consideration for the Board.

The commercial hamlet would allow for the existing residences to continue as conforming uses. It would also allow when that new zoning classification to allow for the adaptive reuse of existing structures or as the zoning code says it would also allow for medium scale businesses and essential services that are intended to be located in close proximity to residential uses.

Again, there are several different zoning classifications already in existence in this area. Along Route 9W it's general commercial. Allows for the larger big box retail, if you would. As you move down Corning Hill Road on your north side is Residential A until you get to the bottom of the hill. It becomes Rural Light Industrial. And, then on the south side of Corning Hill Road it's zoned Rural.

We did receive a letter from the resident across the street, the property owner on the south side of Corning Hill Road supporting the rezoning request. Obviously, we got letters of support from the 5 property owners in question, as well. I would just point out, again, the existing residences are allowed to continue as permitted uses. Should they want to do an adaptive reuse or a commercial use they would then have to go to the Planning Board for site plan approval assuming the Town Board approves the rezoning request.

And, this project was referred to the Planning Board from the Town Board in

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November of this year. You received a recommendation back from the Planning Board on December 2nd recommending that the rezoning go forward. Also, because of its proximity to Route 9W, we had to refer it to the Albany County Planning Board under General Municipal Law 239. On December 18th we received a recommendation back from the Albany County Planning Board saying that they saw no county-wide or inter-municipal impact and deferred to local consideration.

SUPERVISOR CUNNINGHAM: Okay, good. Does anybody have any questions for Mike on this?

COUNCILMAN KOTARY: I have a quick question, Mike. You said 5 properties, is that right?

MR. MORELLI: Yes.

COUNCILMAN KOTARY: All right, I'm just looking at the map and it looks like there is 1, 2, 3, 4, 5, 6.

MR. MORELLI: Yes, this... that is actually 1 property. I don't know why the aerial map showed... let me just move this over. Mr. Ciccone owns this property and also this property, which is vacant. There is like a 15 foot strip of land here that is owned by the residents in the back. So, they do have access out on Corning Hill Road but it is a very narrow strip and then the house is back here. Then there are 2 residences here and it backs up again to the General Commercial zone. It actually backs up to a towing company.

COUNCILMAN KOTARY: Is that 15 foot wide keyhole entryway... is that enough for it to be potentially used if the zoning were changed to be viable for commercial use?

MR. MORELLI: Yea, I think actually Mr. Ciccone is looking to purchase that property from the owner. Current owner is looking to sell the property.

SUPERVISOR CUNNINGHAM: Okay and you said that all the land owners that are within that section have all written in support of this. That's correct?

MR. MORELLI: In support, including the property owner... the large property owner across the street has sent in a letter of support for the rezoning.

SUPERVISOR CUNNINGHAM: Good, thanks. Any other questions for Michael? Yes, go ahead.

COUNCILMAN KOTARY: On the south side of Corning Hill Road is just Rural zoned?

MR. MORELLI: On the south side it is Rural zone. This current zone here is Residential A and then again out on Route 9W it is General Commercial. Again, you get to the bottom of the hill at 144, it's Rural Light Industrial.

COUNCILMAN KOTARY: Thanks a lot.

COUNCILMAN HENNESSEY: One more question, are there any proposals in place right now for what they might intend to do there?

MR. MORELLI: Yes. Mr. Ciccone had come in several months ago. He would like to... he restores antique and classic cars. That is a permitted use in the Commercial Hamlet zone subject to Planning Board approval for both a special use permit and site plan approval. So, this... if this rezoning went forward by this Town Board they would go before the Planning Board for yet another public hearing for the special use permit and site plan approval. It's all done interior. He had some plans drawn up by Steve Bolduc of Keystone Builders. Kind of a traditional looking building, traditional signage trying to, you know, kind of blend in and kind of a more traditional look for the neighborhood. That's the only application we have or pending application we have right now.

SUPERVISOR CUNNINGHAM: Sam.

COUNCILMAN MESSINA: Rezoned area with existing use, if the properties are subsequently sold. I think the use does flow to the new property owners, is that the way that works?

MR. MORELLI: Yes. And, again, Sam, there is a couple single family residences there. They are permitted use in the commercial hamlet zone. So, this rezoning doesn't make them non-conforming, it just is another... it allows for a variety of other uses.

COUNCILMAN MESSINA: All right, thank you. Thank, Jack.

SUPERVISOR CUNNINGHAM: Okay. Thanks, Michael. Okay are there comments from the public? Anybody here want to make a comment on this proposed rezoning on Corning Hill? There were none.

I do want to make a note that the Board... I distributed a letter from Skip and Betty Albright, 83 Corning Hill Road. They have expressed their concerns regarding this and so I just wanted to make sure that that will be included in the minutes and we received the letter and be taking that into consideration when we make our decision.

Town Board
Town of Bethlehem
RE: Ciccone commercial hamlet application
January 13, 2009

Thank you for considering this proposal, we hope you will give it the attention that it deserves.

While we applaud Mr. Ciccone's proposal to upgrade his business, by removing his residence and existing commercial buildings, we hope you can find a way to allow his project without changing the character of our neighborhood.

As you are aware the Late Mayor Corning's father, Parker Corning put stringent limits to the deeds for properties on the lots he sold on the southern side of Corning Hill. It is our understanding that the Truck stop (now Cumberland Farms) and the Motel nearby were in fact not sold, but operate on long term leases.

The properties on the north side were divided up into residential lots and sold to homeowners to be used as homesite.

Although Mr. Ciccone declared at the Planning Board meeting that "It's not a neighborhood, it's only a street", Corning Hill is indeed a place of neighbors and distinct residential quality.

My Great-grandfather build our family home in 1914 and Albright's have lived in it ever since.

One of our other neighbors homes was built by her husband, a refugee from Eastern Europe, after WWII, no one else has ever lived there either. Many of the people on the street have lived here for 20 years some for 30 or 40.

Do we have square dances? No.

Do we have picnics? Or garage sales? No.

It's not THAT king of neighborhood.

But can we call on each other in times of trouble? YES

Do we watch out for strangers and unusual happenings? Yes!

Do we want to see homes turned into Nail salons, or Drug stores, or Pizza parlors? No, thank you.

We implore you to find a way to allow Mr. Ciccone's project to proceed without changing where we live.

Thank you.

Skip and Betty Albright
83 Corning Hill Road

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Could I have a motion to close the public hearing?

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to close the public hearing at 6:15 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.

Town Clerk

Supervisor Cunningham said the next item on the agenda would be approve the Town Board minutes of December 10, 2008.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve the Town Board minutes of December 10, 2008 as submitted. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

Supervisor Cunningham noted he want to give a brief description of the next two items and what is being done. He said the Delmar Ambulance group that was part of the Delmar Volunteer Fire Department has separated themselves to become an Ambulance corps. He said the purpose for that was so that they could do direct billing for the ambulance service. As part of the Fire Department or Company, they could not do that, according to Supervisor Cunningham. He said they had to separate themselves, create an Ambulance Corps and the assets of the ambulance group from the Fire Department have to be transferred to the Ambulance Corps. He said the Town of Bethlehem has to accept the those assets from the Delmar Fire Department and then they will convey them to the Ambulance Corps. He noted he has not distributed the agreements but he would get copies to everybody. He apologized for that. He said they have been drawn up by the Attorney that has been working on the Ambulance Corps items.

The first item was a request to authorize the Supervisor to execute an Inter-Municipal Agreement to transfer equipment, apparatus and supplies from the Delmar Fire District to the Town of Bethlehem.

The motion was made by Mr. Kotary and seconded by Mr. Messina to authorize the Supervisor to execute an Inter-Municipal Agreement to transfer equipment, apparatus and supplies from the Delmar Fire District to the Town of Bethlehem. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The next item was to authorize the Supervisor to execute an agreement to transfer equipment, apparatus and supplied from the Town of Bethlehem to the Delmar Volunteer Ambulance.

The motion was made by Mr. Hennessey and seconded by Mr. Kotary to approve the Supervisor to execute an agreement to transfer equipment, apparatus and supplied from the Town of Bethlehem to the Delmar Volunteer Ambulance. 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 Town Assessor, Patty McVee, to schedule a public hearing on February 11, 2009 at 6:00 p.m. for the purpose of considering an amendment of Local Law Section 111-20 to provide property tax exemptions for Cold War Veterans. Supervisor Cunningham said there is a new exemption that the Town is allowed to provide to Cold War Veterans and they are going to consider amending the local law to all for that exemption. He said today he was just asking the Board to set a public hearing to consider this item.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve setting a public hearing for February 11, 2009 at 6:00 p.m. to consider an amendment to the Code of the Town of Bethlehem, Section 111-20 to provide property tax exemptions for Cold War Veterans as requested by Assessor, Patty McVee. The motion was passed by the following vote:

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

The next item was a request from Deputy Commissioner of Public Works, Erik Deyoe, to award a contract to Neptune-Benson, Inc. for their bid of \$158,000 for pool filter equipment at the Elm Avenue Park Pool.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve awarding a contract to Neptune-Benson, Inc. for their bid of \$158,000 for pool filter equipment at the Elm Avenue Park Pool as requested by Erik Deyoe, Deputy Commissioner of Public Works.

Councilman Messina asked Deputy Commissioner Deyoe that the competitive bid material was included and that Clough Harbour was involved. He asked if Clough Harbour functions as a Town designated engineer on this function. Mr. Deyoe said there was an RFP for the engineering services and they were the selected consultant. He said it is not under the TD agreement. Mr. Messina asked if they operated as a consultant on this project. Mr. Deyoe said yes, they are an engineering consultant. Mr. Messina thanked Mr. Deyoe.

Councilman Kotary said not so much a question but he just wanted to point out that this was previously approved funding. Mr. Deyoe said that was correct and within the \$600,000. Supervisor Cunningham said this is just awarding the bid. Mr. Deyoe said there was a \$600,000 allotment from the Capital Reserve for this project previously. Supervisor Cunningham said the Board approved the project a couple months back, noting this is just the bid.

The motion was passed by the following vote:

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

The following item was a request from Deputy Commissioner of Public Works, Erik Deyoe, to standardize the Dinmore Road infiltration gallery pump motors. Supervisor Cunningham asked Mr. Deyoe to give a brief update on this project, asking if he was prepared to do that. Mr. Deyoe said prepared as he ever is. He said basically what they are trying to do is standardize on the motor equipment for the infiltration gallery. He said they have 3 pumps in the infiltration gallery that pump water from the infiltration gallery up to the Clapper Road water treatment plant. He said what this does is they have had a previous motor failure under emergency the Town Board authorized them to get a replacement motor. And, he said, in the interest of having interchangeability, they are looking to get standardized in the motor so that down the road they do not have issues with

compatibility with other future motors and parts and repair equipment. He said that was the intent of this item.

Councilman Hennessey said so there will be a saving of time and money. Mr. Deyoe said basically by standardizing on this, they will be able to have interchangeable equipment. He said it saves operating time and it allows for spare parts and equipment on hand to allow to make repairs quicker down the road.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve the standardization of the Dinmore Road infiltration gallery pump motors 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.

The following item was a request from Erik Deyoe, Deputy Commissioner of Public Works, to accept an all purpose easement for 1208 Route 9W, Selkirk from The Backyard Shed Company, Inc.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve the acceptance of an all purpose easement from The Backyard Shed Company, Inc., Selkirk, NY for 1208 Route 9W, Selkirk as requested by Erik Deyoe, Deputy Commissioner of Public Works. The motion was passed by the following vote:

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

The following item was a request from Louis Corsi, Chief of Police, to accept the resignation of Telecommunicator, Nathaniel Brown.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to accept the resignation of Nathaniel Brown, Telecommunicator, as requested by Louis Corsi, Chief of Police. 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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Supervisor Cunningham made note on this item that there is a hiring freeze on at Town Hall, however, this position is a public safety position and that department runs 24/7. He said there will be a request to ask the Board to approve a replacement. He said interviews will done from the list of eligible candidates.

The next item was a request from Karen Pellettier, Director, Senior Services Department to accept a donation in the amount of \$25.00 from Beverwyck in appreciation of the Bethlehem Senior Chorus performance in December.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve the acceptance of a donation in the amount of \$25.00 from Beverwyck in appreciation of the Bethlehem Senior Chorus performance in December as requested by Karen Pellettier, Director, Senior Services Department. The motion was passed by the following vote:

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

Absent: None.

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

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve the appointment of seasonal personnel as requested by Nan Lanahan, Administrator, Parks and Recreation Department, at the titles and salaries listed on the Memorandum dated January 14, 2009. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The next item was to approve issuance of renewal Trailer Camp Permit for Breckenridge Village, Selkirk. The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve the issuance of a renewal Trailer Camp Permit for Breckenridge Village in Selkirk. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

The next item was to approve issuance of a renewal Trailer Camp Permit for Shady Grove West, Selkirk. The motion was made by Mr. Messina and seconded by Mr. Kotary to approve issuance of renewal Trailer Camp Permit for Shady Grove West, Selkirk. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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

The Supervisor made the following announcements:

- He mentioned that next Tuesday will be inauguration day for the new President. He said there is a lot of historical significance to this event and one of the most significant, in his opinion, is the fact that we are conducting a transition of power peacefully like we do throughout the country. He said part of the reason that we are able to do that is because people that are here, people that come to the meetings, people sitting on the Board all work hard daily to make our democracy work. He said he thought everyone should take some time on Tuesday to witness the inauguration and applaud democracy. He thanked everyone for their hard work.
- Thursday, at 7:45 a.m., the Chamber of Commerce will have the State of the Town Address. He said he will be doing this at the Saber facility on New Scotland Road.
- On January 27, 2009 he will be holding a Town Hall meeting at the Town Hall at 6 p.m. The purpose will be to give residents an update on what is going on with the Town budget and the expenditures. He said some of the initiatives will also be discussed. He said also to talk about the emergency response from the Town's perspective and National Grid's perspective from the last ice storm. He said a representative of National Grid will be here to answer residents questions.
- Town Hall will be closed January 19, 2009 for Martin Luther King day.

- 20/20 continues on January 23, 2009 at 7:45 a.m. at the Elsmere Fire Department. He said they are open to the public although there is no public comment.

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

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The motion was made by Mr. Kotary and seconded by Mr. Messina to adjourn the regular Town Board meeting at 6:26 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.

Town Clerk