

TOWN BOARD  
MAY 28, 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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The Supervisor welcomed everyone to a meeting of the Bethlehem Town Board and asked them to join in the pledge of allegiance led by Councilman Kotary and thanked everyone for being in attendance.

The first item was public comment on agenda items. Mrs. Marie Capone said she sees that there is a change in the Senior office and asked who is getting from part time to full time. Supervisor Cunningham said it is not in the Senior Services Department, it is a Senior Assessment Clerk position. Mrs. Capone asked what department that is in. Supervisor Cunningham said it was in the Assessor's Department. Mrs. Capone thanked the Supervisor.

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Mr. Robert Jasinski acknowledged the Senior Civil Engineer item to present and request comments on the 2008 Annual Stormwater Management Program Report. He said he takes it that the public will be allowed to make a comment on what is presented. The Supervisor asked Mr. Jasinski if he wanted to make a comment after the presentation. Mr. Jasinski said he was thinking he might have to because he does not know what is going to be said. Supervisor Cunningham said he would allow that this evening. Mr. Jasinski said that was fine and thanked the Supervisor.

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

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The first item on the agenda was a request from Senior Civil Engineer, Paul Penman, to present and request comments on the 2008 Annual Stormwater Management Program Report. Mr. Penman said as an MS4 community, the Town of Bethlehem has to prepare an annual storm water report. He said a requirement of the report is to present the report at a public meeting and solicit public comment. He said this is the purpose of the presentation.

Mr. Penman said a copy of the report was included in the Town Board Members and will be posted on the Town website and available in the Town Clerk's office on June 29. The report must be submitted on May 30, 2008 and public comments are solicited and encouraged throughout the year. He said it is an ongoing program and any written comments during the year are welcome and encourage it. Supervisor Cunningham asked if the report tells where to direct the comments. Mr. Penman said they would be addressed to the Engineering Division, Department of Public Works. He said that will be provided to the Town Clerk and placed on the website.

Mr. Penman said he wanted to give a brief overview of the program. He said what is being seen in the last 5 years, the program has been going from setting up and now moving into an actual implementation and enforcement. He said by the end of this year, the Town is required to have an up and running storm water program. He noted they pretty much have that right now. He said there are 6

minimum measures they have to comply with. He said the first 2 are public education and outreach and public participation. He said one of the big things that were accomplished this year was to send out a survey to all residents through the water billing and sewer billing. He said anybody that is on public water or sewer received the survey. He said they sent out over 11,000 surveys and received an over 20 percent response to the survey. He said the survey will be used to gauge the base line knowledge of storm water and the issues related to it and be used to target future public outreach projects.

Mr. Penman said a couple other projects they have done is added on the storm water section of the website information on septic systems so there is all kinds of useful information on the website. He said there is a storm water page and also now a section on septic system maintenance and other references for people that have septic systems.

Mr. Penman said other activities that have resulted in credit is the Household Hazardous Waste Collection Day and the Supervisor's Community Clean-up Day. He said they have credit for that because it indirectly affects the quality of the waters in Town. He thanked the Supervisor.

Mr. Penman said the other item that was done was the illicit discharge and elimination which is minimum measure number 3. He said one of the things they did was adopt a storm water law effective January 1<sup>st</sup> and part of the law prohibits the discharge of illicit discharge. He noted that is people dumping things into the storm sewers. He said it is not a new requirement, DEC has in the past regulated it but the Town now has the enforcement authority to go after people that dump things in the sewers that they are not supposed to.

Mr. Penman said the other thing as part of the illicit discharge that has been done is complete the mapping of all the storm outfalls. He said these are storm sewers that go to the streams and was required to be located on a map. He said the other thing is complete base line water quality data. He noted when they locate the maps, they take some water quality testing to see if there is elevated levels of phosphorous, ammonia or things that should not be there. He said that has been done.

Mr. Penman said another item is minimum measures 4 and 5 which are kind of lumped together. It is construction site runoff control and post construction stormwater management, according to Mr. Penman. He said again they adopted as part of the law, the ability to go out and enforce stormwater measures, erosion and sediment control measures on active construction sites. He said they have it up and running and beginning to do inspections. He said they are focusing right now on the larger subdivisions – Milltowne, Trinity Manor, Carriage Hill. He noted the other thing is that they have completed 100 percent review of all projects that are in front of the Planning Board. He said they have done a review of their proposed stormwater measures that are included as part of the project. He said that is an ongoing item.

Mr. Penman said the last minimum measure is pollution prevention and good housekeeping for municipal operations. He noted they have completed over 350 hours of training for Town staff which is a pretty significant number. He said a lot of the stuff they do in the Highway Department of the Town is not directly started because of stormwater but we get credit for it. He noted those things are the Household Hazardous Waste Day, street sweeping – the Town did 500 miles of street sweeping last year – collected over 50,000 cubic yards of leaves and yard waste as part of the leaf pickup. He said Mr. Sagendorph is also starting an alternative deicing pilot program looking at a more environmentally friendly way of deicing the roads. He said they also got credit for the integrated pest management plan – the Colonial Acres Audubon certification – noting these are all things that promote the good water quality that we get credit for as part of the report.

Mr. Penman said other than the 6 measures that they are doing include working with the Albany County MS4 group as a whole. He said it is a grant

funded group right now and primarily working on minimum measures 1 and 2 which are providing training and materials to the different MS4 communities. He said they are working toward the formation of a stormwater coalition and will be talking more about that in the future if they decide to pursue that. He said the other thing they are doing is hiring a stormwater person for the position that the Town Board approved in last year's budget. He said they are currently interviewing for that position, hoping to have someone who can take over the stormwater full time next month or so.

Mr. Penman said going forward, 2009 activities, things that they are looking forward to doing is pretty much to continue doing what is being done now. He said a lot of the stuff is just maintenance. He said they have set up the program and now it is just maintaining it. He said specific projects they are looking at doing is something called Project Wet. He said it is an educational program that DEC sets up and trains educator to go out into the classroom and do these activities. He said they are working with the Parks Department and Jason Gallo is looking at implementing this part of the summer program so it will be done at the Parks Department instead of the school department.

Mr. Penman said other things they are looking at is working with the Hudson River Estuary program by developing a street signage for stream crosses that incorporates the Hudson River Estuary lo-go, kind of give a regional brand into the stormwater program. He said the idea is to make people aware that things you dump in the streams go to the Hudson River and affect the water quality. He said on the construction end they have to start for illicit discharge, they have to start inspecting on an annual basis, 20 percent of the outfalls. He said they have to go back out and retest them for water and also for structural issues, make sure there are no problems with it. He said the last thing they are doing is in terms of inspection and enforcement. He said they are going out to the construction sites to make sure the silt fences are up and they are doing what they are supposed to do and then on the private end, inspecting private facilities. He said places like the YMCA, CVS – they have private facilities that the Town is responsible to go in and check and make sure they are working. Mr. Penman said they are moving more from program setup to program implementation. He said that is pretty much the high level fly over. He said he would be happy to answer any questions.

Supervisor Cunningham asked if anyone had any questions for Mr. Penman. Councilman Dawson said throughout the report he kept mentioning things that we would get credit for, asking what that meant. Mr. Penman said in the report you are supposed to have certain program requirements so DEC wants to see the Town do a certain level of activities. He said if some of these were not done, they might be looking to start them. He said if there was no community clean-up day, they might have to start implementing a community clean-up day or some other public involvement activity.

Councilman Dawson said these are activities that would satisfy the stormwater requirements. Mr. Penman said they help satisfy the stormwater program requirements and also makes the program look a little bit better by giving the Town a positive response. He said he has heard comments from DEC that the Town has a pretty good program compared to some of the other municipalities that are out there. Councilman Dawson asked if the Town will be graded on the program. Mr. Penman said in a way yes. Mrs. Dawson asked what that will get us. Mr. Penman said it won't get us fines. Supervisor Cunningham said we will avoid being fined. Mr. Penman said it also gets us clean rivers and waters, that's the ultimate purpose of the program. Mrs. Dawson said the ultimate goal.

Councilman Dawson asked if the Town has received any calls through the telephone number that has been set up. Mr. Penman said he does not think we have received any phone calls but they have received on the website 4 complaints for illicit discharges. He said a couple were drainage issues but one was an illicit discharge that someone was dumping grease into the storm sewer. He said they investigated it and they are looking at a follow-up. He said this may be one of the things they do in the future – is if they don't get any calls, the phone number or

program is not being advertised enough. He said that may be a further goal for 2009. He said it is an evolving process.

Councilman Dawson said she was sorry that he did not have any estuary signs with him. She said she would like to see what they are. Mr. Penman said he has one upstairs and can get it. Mrs. Dawson said things like that will help make people more aware and hopefully a little more conscious of things they may be dumping or thinking of dumping. Mr. Penman said he has a mock up and he will bring it down.

Councilman Kotary said mention was made in regard to how we were doing relative to other communities, noting he was curious about among the peer group how that is. He said also mention of the stormwater coalition and who that might be how we are doing compared to the peers. Mr. Penman said personally he thinks we are doing the best. He said he has heard comments from some DEC inspectors who were delegated the program that Bethlehem and Colonie have 2 of the better programs in the area. The other MS4 communities in Albany County – 12 in all – Mr. Penman said the program is based on population – more than 1,000 per square mile he thinks – it is all the populated areas in Albany County pretty much along the river.

Mr. Penman said in regard to the coalition, they have been working as a group and grant funded and now they are in the process of making this a permanent basis. He said they are working on a formula for what the appropriate share of cost is for each community and they are evaluating – as a bigger community – we are going to be expected to put in more money to it. He said they are evaluating what the benefit the Town will get versus the cost of it. He said they are sure there will be more discussion in the future about the coalition.

Councilman Kotary said actually on that point on the financing, in addition to the benefits of joining the coalition grants, how are we doing generally with funding because that has always been a big thing. He said we have been getting this mandate handed down and talked about a lot about the expenses. He asked what he sees in terms of the Town getting funding from State or Federal to help implement the program. Mr. Penman said right now one of the comments that was asked to be put into the report, which they have been told over and over again, is that there is not enough funding from the State level. He said it is an unfunded mandate the Town is being asked to kick in and pay out of the Town's pockets. He said right now he is not sure there are any upcoming grants that are coming out. He said again the MS4 community that the group is right now is grant funded but that ends in end of 2009 and he is not sure if there is going to be another round of it. He said the coalition as a group, the State is looking for communities to band together and apply for a common grant. So, he said that is a benefit of the coalition is that we would be in better standing to get a grant if we do participate.

Councilman Messina noted he recalled when the stormwater management program stuff first came to this and other local governments and the questions were how are we going to do all of it. He commended Mr. Penman, Mr. Gallo and Highway Superintendent Sagendorph and others for the work that has been done. He said we seem to be ahead of the curve now and that is a good thing. He said Mr. Kotary got into the financial issues, asking if programmatically there were any things out there even though you have a program of high quality to other communities that may be a real challenge for us moving into the future that he can see. Mr. Penman said not that he was aware of. He said other than what he mentioned of the possibility of additional grants coming out, he is not aware of anything.

Councilman Messina said we are on track to move forward with this. He asked if Mr. Penman saw any blips out there that are significant. Mr. Penman said if the new stormwater person is brought on board, the biggest thing right now for his department is time. He said trying to focus on the stormwater, there are a lot of people doing a little bit of it and it is kind of taken away from other projects. He said once the stormwater person is on staff, that person can be dedicated – looking at the enforcement and implementation end – so a lot of the stuff is set up but now

they actually have to go out and start inspecting the sites and checking to make sure they are in compliance. He said once that person is in place, it will take care of it. Councilman Messina thanked Mr. Penman and Supervisor Cunningham.

Supervisor Cunningham thanked Mr. Penman. He asked Mr. Jasinski if he had any questions. Mr. Robert Jasinski asked about the person who will manage and run this stormwater, further asking if this will be an employee. Mr. Penman said yes. Mr. Jasinski asked if there was any way of getting any funding on this from the State in any way. Mr. Penman said not that he is aware of.

Mr. Jasinski asked when this mandate actually has to be implemented Mr. Penman said January 1<sup>st</sup> of this year. Mr. Jasinski said it is mandated by this date that you do this. Mr. Penman said yes.

Mr. Jasinski said the other question he would have is it seems like the Town will have the authority that the Town is going to be able to turn around and go on private property and see whether they are meeting the requirements that you want. Mr. Penman said if it is an approved project from the construction end. Mr. Jasinski asked about a private citizens that have no storm water system that runs along the road or anything, what is the criteria on them. He said in other words, is the Town going to come knocking on his door and tell him – hey, we don't like the way the rain runs off the road onto your property and then goes down in back. Mr. Penman said only if there is green water coming out on the lawn or evidence of a chemical or something coming off the property. He said they are not going to be able to just go and knock on doors, it is if there is an illicit discharge complaint that they have. Mr. Jasinski said the Town would then go to whoever is causing the discharge. Mr. Penman said this was correct, they would be looking to track the illicit discharge. Supervisor Cunningham said the requirements of stormwater grandfather's Mr. Jasinski in and they are not going to come back and make someone put in a stormwater system. He said this is going forward.

Mr. Jasinski said he realizes they are talking new construction more or less or construction in process at the present time. He said under the septic systems, mention was made about a portion in there, under the Building Inspector and the Town in past years they have always turned septic systems over to the Albany County health Department but now it sounds like there will be some requirements there. He asked if the Town is going to look at septic systems on the new buildings. Mr. Penman said if there is evidence of an illicit discharge, they would notify the person first and then follow-up on it. He said if they discovered that was the cause of it, it would be referred back to the County and they would be responsible for it. Mr. Jasinski said it is going to be a dual inspection more or less with the County.

Mr. Jasinski said his other question comes down to what section of the Town is going to run this – the Highway Department, or the Sewer and Water Department. He asked if this has been decided. Mr. Penman said as part of the new stormwater law that was adopted in January, the Engineering Division was delegated the responsibility of the program. Mr. Jasinski said a certain number of hours that were already spent on this and everything else. He asked if he anticipates that there will be people pulled off of other work areas to assign them to this. Will there be an increase in employment, he asked. Mr. Penman said the current program is being handled by the existing staff. He said if anything, it will free them up to speed once the new person is on the staff, it will bring us up to work on other projects. He said as the Board knows, this comes back to what bothers him – money. He thanked the Board.

Supervisor Cunningham said Mr. Jasinski was right, it was an unfunded mandate that the Town is required to manage.

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The following item was a request from Town Supervisor, John Cunningham and Senior Planner, Jeff Lipnicky for formation of the Agricultural and Farmland Study Advisory Committee and appointment of the following members:

Lynn Dente

Nancy Neff

Tom Gallagher	Chuck Preska
Paul Kleinke	Tim Stanton
George Leveille	Bob Verstandig, Jr.
Stuart Lyman	Giles Wagoner

The Supervisor pointed out for the Board's information that aside from George and Tom Gallagher, all these individuals are involved in agriculture business which is why we reached out to them or they reached out to the Town to be involved in this.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to approve the appointment of the following members of the Agricultural and Farmland Study Advisory Committee as recommended by Supervisor Cunningham and Senior Planner, Jeff Lipnicky:

Lynn Dente	Nancy Neff
Tom Gallagher	Chuck Preska
Paul Kleinke	Tim Stanton
George Leveille	Bob Verstandig, Jr.
Stuart Lyman	Giles Wagoner.

Councilman Kotary said he just wanted to point out that they received a \$25,000 grant from NYS Department of Agriculture and Markets to help pay for this. Supervisor Cunningham noted the grant was received quite a while back.

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 29, 33 and 37 Blessing Road, North Bethlehem.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to accept the all purpose easements for 29, 33, 37 Blessing Road, North Bethlehem from Kimberly Kearney of Winston Salem, NC and Eugene Guidetti and Gregory Guidetti of Albany, NY 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 Town Engineer, Erik Deyoe, for acceptance of easement for 4 Minnowbrook Avenue, Delmar.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to approve the acceptance of an all purpose easement from S. T. Zautner & Sons, Inc., Glenmont, New York for a parcel at 4 Minnowbrook Avenue, Delmar, N.Y. as requested by Erik Deyoe, Town Engineer. 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 Judith Kehoe, Comptroller, to reclassify Senior Assessment Clerk position from temporary to regular full-time staff. Supervisor Cunningham said Karen Granito has been working for the Town for 6 years as a temporary position, 42 hours a week, 52 weeks a year. He said in

discussions with the Human Resources Department, it was determined to be a full time job.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to reclassify the position of Senior Assessment Clerk from temporary to regular full-time staff as requested by Comptroller, Judith Kehoe. 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 congratulated Mrs. Granito. He thanked her for her 6 years of hard work.

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

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to approve the appointment of seasonal personnel at the titles and salaries listed in the Memorandum dated May 28, 2008 as requested by Nan Lanahan, Administrator, Parks and Recreation Department. 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 Gregg Sagendorph, Highway Superintendent, for approval of award of bid for one (1) new street sweeper at a cost of \$143,975.00 and one used sidewalk snowplow with sander at a cost of \$77,720.00 to Clark Municipal Equipment of Rensselaer, New York. Supervisor Cunningham pointed out that not only does street sweeping keep our community beautiful but also is part of the stormwater management program and ties into that.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to approve the award of bid for one (1) new street sweeper at a cost of \$143,975.00 and one used sidewalk snowplow with sander at a cost of \$77,720.00 to Clark Municipal Equipment of Rensselaer, New York as requested by Highway Superintendent, Gregg Sagendorph. 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 Highway Superintendent, Gregg Sagendorph, for approval of transfer of funds for collision repairs in the amount of \$4,965.05.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve the transfer of funds for collision repairs in the amount of \$4,965.05 as requested by Gregg Sagendorph, Highway Superintendent. 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 asked if there was any new business to come before the Town Board. Councilman Messina said he wanted to mention that

tomorrow at 7 p.m. in the auditorium there will be the first of perhaps more than 1 meeting of the Bethlehem Noise Task Force. He said the task force has been working about 8 months, has 7 meetings, has a lot of information and tomorrow they want to hear from the public after a relatively brief presentation on what they have been doing. He said they have had public notices in the Spotlight, Our Towne and the Ravena News Herald. He said it has been on the Town's website so there is a lot of information out there. He said they do hope people will come to hear and also express any views they may have. He thanked the Supervisor.

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Supervisor Cunningham made the following announcements:

- With regard to recycling following our Household Hazardous Waste Collection Day, improvements are being looked at. He announced 2 things have been started – 1. is a recycling web page on the website. They are working with the commercial pickup companies to make more information available to the public. He encouraged everyone to visit the web page for more details.
- They have set up an email at [recycle@townofbethlehem.org](mailto:recycle@townofbethlehem.org) for residents to send in questions and they will respond.
- Community Clean-up Days are scheduled and noted the next one is June 21. Volunteers and location are being sought. Anyone interested can contact Deb Kitchen here at Town Hall.
- The Town of Bethlehem Park pool will open on June 7.
- There have been system upgrades at the Town Park. There are on line receipts and facility reservation notices. He noted the system will be updated throughout the year. He suggested everyone check out the website.
- Parks Administrator, Nan Lanahan, mentioned that everyone will need to get a new park pass. The new system will have a bar code reading. The ID room is open Monday through Friday from 9 a.m. to 6 p.m. and on Saturday from 10 a.m. to 12 Noon.
- Announced Director of Economic Development and Planning, George Leveille's son, Michael, is receiving an award for his lacrosse performance with Syracuse University that won a National Lacrosse Championship.

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Supervisor Cunningham asked if there were any comments on non-agenda items. Mrs. Marie Capone said this afternoon they went around and did errands. She said she told Councilman Kotary how surprised she was at how much construction is going in the Town. She said she remembered when they built the development across from Colonial Acres. She said the builder had to pay for the sewers, the water, everything. Now she said they just don't and asked what we are going to do next December if we run out of power or water or sewer or something. She said the Board does not seem to care much about it. Supervisor Cunningham said he cares a great deal about the Town. He said he did not understand her question but when developers do come in to develop, they do put in the infrastructure for those developments and then they deed them to the Town. He said the developers are still responsible financially for setting those things up. Mrs. Capone said the developer did put in for the whole length of the development for the sewers and the sewers from the road to the house on each house. She said everything was done just so and now you don't hear the developer saying anything about it. Supervisor Cunningham said they are still required to do that. He said when they do a development they still do the hook-up to the sewers and everything. Mrs. Capone said we will see next winter.

Supervisor Cunningham asked if there were any other 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 pending litigation.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve adjourning to Executive Session to discuss pending 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 Mrs. Dawson and seconded by Mr. Kotary to adjourn the regular Town Board meeting at 6:35 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. Messina and seconded by Mrs. Dawson to approve the revaluation of property located at 1141 River Road, Selkirk from \$50,000 to \$36,500.00. 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. Kotary and seconded by Mr. Hennessey to approve the appointment of Daniel Coffey as per diem counsel to the Town Attorney. The motion was passed by the following vote:

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