

TOWN BOARD  
NOVEMBER 14, 2007

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  
Daniel Plummer, Councilman  
Samuel Messina, Councilman  
Kyle Kotary, Councilman  
Joann V. Dawson, 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 and invited them to join in the pledge of allegiance.

The Supervisor noted the new microphone system is again being used. He asked everyone to bear with it while it is adjusted.

Supervisor Cunningham asked if there were any public comments on agenda items. Mr. Robert Jasinski congratulated everyone who ran for election and were victorious. He said it was a good political run for everyone. Supervisor Cunningham thanked Mr. Jasinski.

Mr. Jasinski requested that the Board give information on the YMCA sidewalk project before he jumps into it. Supervisor Cunningham said he would. Mr. Jasinski said he may be ill informed on this item and what is taking place. He asked if this is any money out of the Town. Supervisor Cunningham explained that right now there is a grant from the Department of Transportation. He noted the YMCA is not a municipality so they cannot accept the grant. He said someone has to accept the grant so the Town of Bethlehem as a municipality is accepting the grant of \$500,000. He said how the sidewalk is divided up and the turn lane money is divided up and all that has not been determined yet. He said the Town is just taking the steps to accept the grant. Mr. Jasinski asked if the Town was being used as a pass through to legally do it. The Supervisor said this was correct.

Mr. Jasinski asked if his statement was wrong. Town Attorney Potter said yes that is the case and proposed. He said he has not seen the contract yet and nothing has been signed and that is the intention. Mr. Jasinski said then he will not complain about it as long as it does not cost the Town any money. He said he still cautions the Town on their spending for the coming year. He said he is still concerned and thinks some expenses that we do not necessarily need right away be held off until the money is seen coming in from the County and different places that we receive money from. He thanked the Board.

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Supervisor Cunningham asked if there were any other comments. Mrs. Capone asked while the sidewalk is being done, is the Board going to look to finish the sidewalk between Verstandig's and Stewart's. She said there is no sidewalk there and the kids cross the street back and forth. Supervisor Cunningham said they do not have any plans for any sidewalks right now. He said the YMCA sidewalk is something that was started before he became Supervisor. He said they are looking at a whole sidewalk initiative for the Town but in the very beginning stages of this process. Mrs. Capone requested if they do please look this one up.

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Mr. Norman Moran said he has questions on the budget. He noted last year the Town used \$1.2 million and held the tax increase down to 5 percent. He said this year we are using \$2.5 million to hold it to 2.75 percent. He said he thinks the Town is going in the wrong direction. He said instead of using the surplus money

to do some constructive things like on the water system and sewer system and things like that, it is being used for other purposes.

Mr. Moran asked what the real increase would be in taxes had the Town not used \$2.5 million in surplus funds. He asked if he could get an answer on that. Supervisor Cunningham said 35.8 percent he thought it was. He said that was the answer from the Comptroller. Mr. Moran said why is this not brought up. He said the Town is going in the wrong direction. He said we should be raising taxes on a basis every year rather than using the surplus because we have needs for those surpluses. He said there is the water system that is failing, a sewer system which is nearly at full capacity, the Town will run out of surplus money and then a tax increase will be high. Supervisor Cunningham noted this is not the plan. Mr. Moran said he does not see any big bonanza of money coming into the Town. He said if there is, he would be glad if someone would inform them. He said you talk about Vista, that is \$124,000 a year over a period of 20 years. He asked where it is coming from. Supervisor Cunningham noted they are not going to get into a whole discussion on this. He asked if he had comments. Mr. Moran said that is his comment, noting it would be a 35 percent if the \$2.5 million was not used. The Supervisor said that was correct. Mr. Moran thanked Supervisor Cunningham.

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Mr. Mike Waldenmaier, Glenmont, next asked about the \$500,000 for the grant for the YMCA and how much it will actually cost for the sidewalk. Supervisor Cunningham said they do not have a final cost on that, noting the estimated cost was \$550,000 to be finished from Fisher Boulevard up to the YMCA. Mr. Waldenmaier said there was a grant like 2 years ago to finish Elsmere Avenue and it still is not done. He was asking if there was a priority to get that finished first. Supervisor Cunningham said this was correct and that is on the list. He said they had a meeting on sidewalks yesterday and they are trying to get that completed also. Mr. Waldenmaier thanked the Supervisor.

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The next item was to approve the Town Board minutes of October 16, 2007 and October 28, 2007.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to approve the Town Board minutes of October 16, 2007 and October 28, 2007 as submitted. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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The next item was a request to approve the 2008 Town of Bethlehem Budget.

The motion was made by Mr. Plummer and seconded by Mr. Messina to adopt the 2008 Town of Bethlehem Budget. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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The next item was a request to authorize the Supervisor to enter into an agreement for the Sidewalk and Left Hand Turn Lane Grant, \$500,000, for the YMCA Sidewalk Project.

The motion was made by Mrs. Dawson and seconded by Mr. Plummer to authorize the Supervisor to enter into an agreement for the Sidewalk and Left Hand Turn Lane Grant of \$500,000 for the YMCA Sidewalk Project. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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The following item was a request from Senior Planner, Robert Leslie, to accept application for establishment of a Planned Development District at 75 Fisher Boulevard (Phillipin Kill Manor Project) and refer to the Planning Board for recommendation.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to accept the application for establishment of a Planned Development District at 75 Fisher Boulevard (Phillipin Kill Manor Project) and refer the application to the Planning Board for review and recommendation. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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Councilman Messina commented – noting that he thinks it is consistent with what he has said in the past -- there are some duplex units in this project and some range as low as 1,000 square feet. His feeling is that this is moving in the right direction so this project has some interesting aspects from that point of view for seniors and others that want to stay in the Town of Bethlehem that may be starting out.

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The next item was a request from Town Engineer, Erik Deyoe, for acceptance of deeds for Glenmont Woods Subdivision, Glenmont.

The motion was made by Mr. Kotary and seconded by Mr. Plummer to approve the acceptance of deeds for Glenmont Woods Subdivision as requested by Town Engineer, Erik Deyoe. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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The following item regarding the Interim Financial Report was left until after the public hearing. The next item was a request for permit renewal of 3 consecutive 4 week terms for trailer permit for premises 19 Hackett Street, Selkirk under the same terms and conditions set at the Special Meeting of the Town Board on October 16, 2007. Supervisor Cunningham reminded the Town Board that this was a permit to allow the resident to put a trailer on the property in order to accommodate some health issues they were having with their children after a fire at the home. He said this will allow the family to keep the trailer until the house repairs are completed.

The motion was made by Mrs. Dawson and seconded by Mr. Plummer to approve a trailer permit renewal for 3 consecutive 4 week terms at premises 19 Hackett Street, Selkirk, under the same terms and conditions as set at the Special Meeting of the Town Board held October 16, 2007. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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Acknowledgement was made of receipt of the Quarterly Franchise Fees from Time Warner Cable for the period July through September 2007 in the amount of \$112,921.47.

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The following item was a request from Louis Corsi, Chief of Police, for approval of budget modification, to increase insurance recovery revenue line item and increase the police 43-15 collision repairs account line in the amount of \$3,893.98.

The motion was made by Mr. Kotary and seconded by Mrs. Dawson to approve the request from Louis Corsi, Chief of Police, for approval of a budget modification, to increase insurance recovery revenue line item and increase the police 43-15 collision repairs account line in the amount of \$3,893.98. The motion was passed by the following vote:

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

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The next item was a request from the Chief of Police, Louis Corsi, for approval of budget modification, to increase insurance recovery revenue line item and increase the police 43-15 collision repairs account line in the amount of \$1,890.88.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve a budget modification, to increase insurance recovery revenue line item and increase the police 43-15 collision repairs account line in the amount of \$1,890.88 as requested by Chief of Police, Louis Corsi. The motion was passed by the following vote:

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

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Hearing began: 6:15 p.m.

SUPERVISOR CUNNINGHAM: It is now 6:15 and we will move onto the public hearing regarding an Amendment to the Code of the Town of Bethlehem, new Section for Stormwater Management. This is the Stormwater Management ordinance that we need to put in place for next year. Anybody want to speak to that?

The motion was made by Mr. Kotary and seconded by Mrs. Dawson to waive the reading of the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting and indent said notices on the minutes of the meeting. The motion was passed by the following vote:

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

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TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING

TOWN OF BETHLEHEM, ALBANY COUNTY

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on November 14, 2007 at 6:15 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider proposed Local Law creating a new Section of the Town Code of the Town of Bethlehem regarding Stormwater Management and Erosion and Sediment Control.

All parties in interest and citizens will have an opportunity to be heard at

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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.

the said hearing.

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

BY ORDER OF THE TOWN BOARD  
TOWN OF BETHLEHEM  
Kathleen A. Newkirk, MMC, RMC  
TOWN CLERK

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STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and the attached Legal Notice was published in the Town's legal newspaper, The Spotlight, on October 31, 2007 and that I posted the Notice of Public Hearing on October 31, 2007 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  
14th day of November 2007.

/s/ Julie S. McNeil  
Notary Public

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SUPERVISOR CUNNINGHAM: Paul, go ahead.

MR. PENMAN: We did a quick presentation just to give you a brief overview.

SUPERVISOR CUNNINGHAM: You can take that over there if you want to walk, the mike comes out of there.

MR. PENMAN: Erik asked me to give a brief presentation on the proposed stormwater amendment law. So I promise to make it quick, Sam.

SUPERVISOR CUNNINGHAM: He's grown a beard since you started talking.

COUNCILMAN MESSINA: I knew someone would mention this.

MR. PENMAN: The first question is why are we doing the law? Basically it is mandated by the New York State DEC as a requirement for the Town. We're not looking at imposing any new regulations for the stormwater management. It's just basically delegating enforcement and administration of the program from the State level to the Town level.

Now, if we don't do it, the DEC has the power to fine us as part of our permit requirements and they pretty much made it clear that they will be fining municipalities that don't enact their legislation.

Permit deadline is January 8<sup>th</sup> of 2008.

Local Law development – basically the State is saying we have to enact 2 local laws – a stormwater management and erosion and sediment control and an illicit discharge and detection. What we've done is basically combine them into 1 set... 1 chapter of the local law with 2 sections. The proposed law is based on what the DEC has given us as a model law. So again, it's no major surprises, no major changes. On top of that we have to amend 3 of our existing codes – the subdivision regs, the zoning law and the solid waste code. Basically all that does is references the requirements to the stormwater law. It says that... when you are doing the subdivision, you have to comply with the stormwater management requirements. And again, we are proposing for it to be effective January 8<sup>th</sup> which will meet compliance with the January 8<sup>th</sup> deadline.

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Local Law requirements – again stormwater management which is to oversee stormwater management on construction sites and also allow for post construction development of management. The second section prohibits illicit discharges and what they basically do is creates the process and the enforcement authority in the Town. Again delegating from the State level to the Town level. And, as I just mentioned, the code amendment is just amends the existing law to require compliance with the management law.

IDD – again it prohibits illicit discharges, that’s dumping paint down the storm drain, when you have runoff from a construction site into the storm drains – that’s what you would consider an illicit discharge.

As I mentioned it gives us the enforcement authority and puts procedures in place. It allows us to go and if we find an illicit discharge, we can require what’s called best management practices – also known as BMPs – where we might make them install silt fencing or other measures to prohibit the illicit discharge from continuing. Also gives us the authority to access private facilities to go in and inspect stormwater control measures. Now, one thing we are not doing which was an option for the stormwater law was to assume responsibility for septic systems. That currently resides with the County Department of Health and it was pretty much the consensus of the Town – if we don’t have to assume it, let’s not. So, that was an option and we’re not doing that.

Now it’s also the person who is going to be responsible for it is the SMO, which is otherwise known as the Storm Management Officer and it’s been proposed to have that person reside as a designee of the Town Engineer. There was some talk about having it in the Building Department because they traditionally have done the enforcement, however, with the roles of the Town Engineering Department with what we do, it was kind of decided that the best way to move forward was to leave it with the Engineering Department.

The E and S summary is... requires a stormwater pollution prevention plan which otherwise is known as a SWIP. We currently require this as part of the planning process. It’s just basically... puts it down on what the requirements are again as the DEC requires it. Then we have... we are responsible for enforcement of the SWIP requirements during construction. Again, currently DEC does that. We’re now going to be responsible for that.

Post construction is now requiring the installation of BMPs for post construction. That might be a pocket wetlands or a storm retention pond but it’s now requiring those on pretty much all larger developments. Also requires on private systems, if you know like CVS has the sand filter. It requires a maintenance agreement for them and it also empowers us to go out and check it and make sure it is being properly maintained.

Again, we mention the Stormwater Management Officer is going to be with the Town Engineer’s Department.

I’ve listed all the codes that are going to be amended as part of the law. Again, it is just referring us to the stormwater management. When you are going through subdivision it just says go to the stormwater management section and comply with those requirements. But, again it is the subdivision regs, the zoning law and the solid waste section.

The one section that is a little bit... that’s not quite just referring to the stormwater management is the grade and permit amendments. Currently we have a grading permit requirement that says if you disturb a quarter acre or greater, you have to get a grading permit and comply with the requirements of the grading permit. New York State DEC says the threshold should be 1 acre. What we are proposing to do is not change any land use restrictions but for a quarter to 1 acre, you will have to comply with the grading permit the way it is right now and for greater than an acre you have to comply with the grading permit and the stormwater management. So, it kind of establishes that threshold. Again, doesn’t change anything just puts the

authority with the Town.

The process to adopt -- first thing we have to do is SEQR, designate the Town as Lead Agency. That was done 2 meetings ago. Next step would be the negative declaration which we're hoping if there is no public comment that we would have a neg dec tonight was what we are hoping for but that would be dependent on public comment. The other thing is the public hearing which is what we are doing right now. I have as 2a. address public comments and concerns. If there are comments or concerns, we would have to address them but we are hoping since it's really no new regulations just delegating to the Town and we have to do it, that there won't be major concerns with it. And, the next step would be to adopt the local law and if the Board doesn't have any concerns or if there is nothing identified, we would ask the Board to consider adopting it tonight.

Once it is adopted, we have to file it with the Secretary of State within 10 days and then the last item is the law would go into effect January 1<sup>st</sup>, 2008. That's pretty much it, 5 minutes, Sam?

COUNCILMAN MESSINA: You did good, Paul.

MR. PENMAN: Thanks.

SUPERVISOR CUNNINGHAM: I've got a question for you, Paul. On the enforcement you said the Town now has the enforcement instead of DEC on stormwater

MR. PENMAN: Well, we would have the enforcement responsibility. DEC is going to keep their enforcement abilities but they are looking for the Towns to be the first line in the enforcement. There was just an enforcement action in Colonie where the Town... Colonie has adopted their laws already and what happened is the Town in conjunction with the DEC pursued enforcement against a contractor that was in violation. So if it came to that step, which hopefully you don't have to go to that step, you would be bringing DEC in and have them help you with the process.

SUPERVISOR CUNNINGHAM: And, there are fines attached to that?

MR. PENMAN: Yes, we have... what's that?

SUPERVISOR CUNNINGHAM: Who gets the fines? Who gets the fines?

MR. PENMAN: We have... the one in Colonie, there was the big fine -- I think one of the contractors was fined \$85,000, I think \$50,000 went to DEC and the \$35,000 was earmarked for the Town for an environmental improvement. So, the Town did get \$35,000 of the fine.

SUPERVISOR CUNNINGHAM: Okay, but it was a restricted... the monies were restricted then?

MR. PENMAN: I believe so yes. I don't know the full details but it was along those lines.

SUPERVISOR CUNNINGHAM: Okay. Thanks.

MR. PENMAN: Any other questions?

COUNCILMAN KOTARY: Yea, Paul. Are there exemptions?

MR. PENMAN: Yes there are.

COUNCILMAN KOTARY: And, can you talk a little bit about those?

MR. PENMAN: Let me... I had to go to the list of it. It's basically the exemptions are currently what's in the exiting grading permit. We cross referenced them and

made sure it didn't change.

COUNCILMAN KOTARY: Right.

MR. PENMAN: Agricultural activities, trying to find the section on it to refer you to it. Flushing of water mains which currently is exempted. Thanks. Again, agricultural activities, routine maintenance that are less than 5 acres, 5 acres is a big threshold with the DEC so greater than 5 acres would not be exempt. Repairs to stormwater facilities, let me see what else -- cemetery exemptions, cemetery grades, fence, signs, telephone/electric poles and emergency activities. Those are pretty much the exemptions.

COUNCILMAN KOTARY: Thanks and this goes into effect or would go into effect if we approve, January 8<sup>th</sup> right?

MR. PENMAN: January 8<sup>th</sup> is the permit deadline. We're looking for an effective date of January 1<sup>st</sup>.

COUNCILMAN KOTARY: January 1<sup>st</sup>, okay. What about projects that are already in the pipeline? Do they have to be compliant or projects that are sort of midstream? How does that work? Are they grandfathered out?

MR. PENMAN: Well, actually since they... again, since there... again there is no new regulations. Right now they have to provide all these requirements for... to meet DEC requirements and also we currently review SWIPs as part of the planning process so again, it is not a new regulation so enforcement would occur... once they go into construction then we would take over enforcement. That is the only change I could foresee.

COUNCILMAN KOTARY: Okay, so that I am clear, the only change then is that we've been mandated to take over the implementation, enforcement as opposed to the State.

MR. PENMAN: Exactly.

COUNCILMAN KOTARY: Essentially, you know, the compliance aspects to the law are not changing.

MR. PENMAN: That's exactly it.

COUNCILMAN KOTARY: Okay, thanks Paul.

MR. PENMAN: Okay. Any other questions?

COUNCILMAN MESSINA: Paul just this question, you mentioned Colonie had adopted their statute early on – sometimes it is good to be first, sometimes it's not. If they are first and they have some enforcement experience in this area, is it worthwhile for us to get with them if we have not done so to try and pick their brains?

MR. PENMAN: Actually, we have and we do. We're part of intermunicipal committee, the MS4 meeting, we meet once a month and we share a lot of the experiences. And, we also when we did the law we also looked at what they did and compared it to what we were proposing. So, that has been part of the process and we continue to... we speak with their stormwater management officer quite frequently actually.

COUNCILMAN MESSINA: So, how's it been going with Colonie in terms of what we can learn from their issues, any problems that come up?

MR. PENMAN: They've been going pretty smoothly. Again, it's not really any new regulations, it's just enforcing it.

COUNCILMAN MESSINA: Thank you.

MR. PENMAN: Okay.

SUPERVISOR CUNNINGHAM: Thank you Paul. Are there other public comments regarding this local law?

MR. JASINSKI: I have a question. Robert Jasinski. I mean most of the questions have been answered but what is the Town's responsibility taking stormwater runoff from roads... Town roads because many of our roads, the Town roads, do not have ditches, areas for the water to runoff? I mean with say a large storm... rain storm. All of a sudden you wind up alongside the road with almost a swamp with an acre of land or something like that. And, I can name you places that that would take effect. Is the Town going to be responsible for ditching and providing a ditch that will take care of this runoff to bring it...?

TOWN ATTORNEY POTTER: My understanding is this law does not alter the Town's responsibility for existing facilities.

MR. JASINSKI: So, it only pertains to businesses that are building and cultivating land in a way to make it...

TOWN ATTORNEY POTTER: No, except to the extent that it contains a prohibition against discharges. If an existing business were to discharge a polluting substance that would be a different story too. But, yes, as I understand it it does not affect our obligations to maintain our roads in any way.

MR. JASINSKI: It's always nice when municipalities get away with things and the public don't.

TOWN ATTORNEY POTTER: Well, there's... we have our responsibilities otherwise.

MR. JASINSKI: Thank you.

SUPERVISOR CUNNINGHAM: Thanks Bob.

MS. LINDA JASINSKI: Does this only... is this only effective in the MS4, the stormwater management district or is it effective throughout the whole Town?

MR. PENMAN: It affects the whole Town.

SUPERVISOR CUNNINGHAM: The entire Town. Go ahead Paul.

MR. PENMAN: It affects the whole Town. One of the changes... the grading permit requirement is a quarter to 1 acre disturbance. The permit requirement is for... in the grading permit is a quarter acre to 1 acre disturbance within the MS4 area. Outside of the MS4 acre it's a 1 acre threshold, that's not changing, that's staying the same. So, it is the only quarter acre to 1 acre within the MS4 area. Okay, does that answer your...?

MS. JASINSKI: Yes, okay.

SUPERVISOR CUNNINGHAM: Additional comments? Okay, I'd like to ask the Board... Do I want to close it before I do this?

TOWN CLERK NEWKIRK: Yes, the negative dec can be done after the close of the hearing.

SUPERVISOR CUNNINGHAM: Very good, okay. So, can I have a motion to close the public hearing?

The motion was made by Mr. Messina and seconded by Mr. Kotary to close the public hearing at 6:32 p.m. The motion was passed by the following vote:

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

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Town Clerk

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Supervisor Cunningham asked the Board to make a motion to adopt the resolution making a negative declaration with regard to SEQR. The following resolution was presented for adoption:

**Resolution No. 25**

TOWN BOARD  
TOWN OF BETHLEHEM  
**SEQR RESOLUTION**

CLASSIFICATION OF ACTION AS NEGATIVE DECLARATION

PROPOSED LOCAL LAW NO. 7 OF THE YEAR 2007

STORMWATER MANAGEMENT

WHEREAS, The Town Board of the Town of Bethlehem as part of its Phase II SPDES General Permit for Stormwater Discharge from Municipal Separate Storm Sewer Systems is mandated by the NYSDEC as a permit condition to enact local laws which will prohibit illicit discharges and require the development and implementation of erosion and sedimentation controls for land development within the Town, which include construction site and post-construction stormwater runoff control regulatory mechanisms.

WHEREAS, the Town Board of the Town of Bethlehem is considering adoption of Local Law No. 7 of the Year 2007 that would provide regulatory mechanism for dealing with stormwater management and,

WHEREAS, the Town Board has received a Long Environmental Assessment Form ("LEAF") for the proposed action completed by the Town Engineering Division; and,

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

WHEREAS, 6 NYCRR 617.6(a) requires that when an agency receives an application for approval of an action it must: (1) determine whether the action is subject to SEQRA, (2) determine whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District; and,

WHEREAS, 6 NYCRR 617.6(b)(1) indicates that when a single agency is involved, that agency will be the lead agency when it proposes to undertake, fund, or approve a Type I or Unlisted action; and,

WHEREAS, The Town Board hereby determined that:

- 1) adoption of the proposed local law constitutes an Type 1 action which is subject to SEQRA,
- 2) the proposed action does not involve a federal agency or any other agency,
- 3) the proposed action is not located in, or within 500 feet of, an Agricultural District and, therefore, is not subject to the provisions of the Agriculture and Markets Law,
- 4) a long EAF is adequate for determining the significance of the proposed action, and;

WHEREAS, The Town Board declared it is lead agency with respect to SEQRA review of the proposed action, and;

NOW, THEREFORE, BE IT RESOLVED,

that based upon its review of the project and the EAF, and comparison

with the Criteria for Determining Significance found at 6 NYCRR Section 617.7(c), the Town Board hereby finds that adoption of the proposed local law for stormwater management constitutes an action which will not have a significant impact on the environment and, therefore, does not require preparation of a Draft Environmental Impact Statement; and,

BE IT FURTHER RESOLVED,

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

- 1) The Town Board of the Town of Bethlehem as part of its Phase II SPDES General Permit for Stormwater Discharge from Municipal Separate Storm Sewer Systems is mandated by the NYSDEC as a permit condition to enact local laws which will prohibit illicit discharges and require the development and implementation of erosion and sedimentation controls for land development within the Town, which include construction site and post-construction stormwater runoff control regulatory mechanisms.

BE IT FURTHER RESOLVED,

that this Determination of Significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,

BE IT FURTHER RESOLVED,

that the Town of Bethlehem Engineering Division is hereby authorized to file any and all appropriate notices so that the intent of this Resolution is carried out.

On a motion by Mr. Kotary, seconded by Mr. Messina, and by a vote of 5 for, 0 against, 0 abstention, and 0 absent, this RESOLUTION was adopted on November 14, 2007.

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Supervisor Cunningham asked if the Town Board wished to adopt the proposed Local Law.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to adopt Local Law No. 7 of 2007, establishing new Chapter 98 within the Code of the Town of Bethlehem for Stormwater Management; and amending Chapter 103 Subdivision Regulations, Chapter 128 Zoning Law and Chapter 97 Solid Waste to be effective January 1, 2008. The motion was passed by the following vote:

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

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Hearing Began: 6:35 p.m.

SUPERVISOR CUNNINGHAM: Next we have the public hearing regarding the 2008 Assessment Rolls for the Bethlehem Sewer District. Need a motion to waive the reading of the Call of the meeting and a motion to Indent Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to waive the reading of the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting and indent said notices on the minutes of the meeting. The motion was passed by the following vote:

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

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TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING  
TOWN OF BETHLEHEM, ALBANY COUNTY

WHEREAS, 2008 Assessment Rolls have been prepared for the Bethlehem Sewer District and it is necessary to hold a public hearing with reference thereto,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hold a public hearing with reference thereto, at 6:20 p.m. on Wednesday, the 14th day of November 2007, at the Bethlehem Town Hall, and,

BE IT FURTHER RESOLVED, that the Town Clerk be, and she hereby is authorized and directed to publish a notice of such hearing in THE SPOTLIGHT, a newspaper published in Albany County and having a circulation within the Town of Bethlehem, on the 31st day of October 2007.

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 need assistance in order to participate should contact the Town Clerk's office at 439-4955, Ext. 1183. Advanced notice is requested.

The foregoing resolution was presented for adoption by Mrs. Dawson, seconded by Mr. Plummer and duly adopted by the following votes:

AYES: Mr. Cunningham, Mr. Plummer, Mr. Messina, Mr. Kotary, Mrs. Dawson.

NOES: None.

ABSENT: None.

BY ORDER OF THE TOWN BOARD  
TOWN OF BETHLEHEM  
Kathleen A. Newkirk, MMC, RMC  
TOWN CLERK

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STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and the attached Legal Notice was published in the Town's legal newspaper, The Spotlight, on October 31, 2007 and that I posted the Notice of Public Hearing on October 31, 2007 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  
14th day of November 2007.

/s/ Julie S. McNeil  
Notary Public

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SUPERVISOR CUNNINGHAM: Thank you. Do we have anyone who would like to make comments regarding the 2008 Assessment Rolls for the Bethlehem Sewer District.

Okay. Can I have a motion to close the public hearing?

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to close the public hearing regarding the 2008 Assessment Rolls for the Bethlehem Sewer District at 6:35 p.m. The motion was passed by the following vote:

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

Noes: None.

Absent: None.

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Town Clerk  
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Supervisor Cunningham thanked the Board.

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The next item on the agenda was to acknowledge receipt of Interim Financial Report as of October 31, 2007 from Comptroller. The Supervisor asked Mrs. Kehoe to give the presentation.

Comptroller Kehoe said when the interim reports are done, the big question was always how are we doing with the sales tax collections and mortgage tax collections as those are the most significant revenue sources in the General Fund. She said it is not every day that she comes with good news. She said tonight could be categorized as one of those nights. She said the sales tax receipt for the third quarter was very strong. Based on projecting the first three quarters to the end of the year we are going to be very close to the budgeted amount. She said with the 9.7 million dollar budget anticipated for sales tax, it is expected that we will be within \$100,000 of attaining that figure. She said based on the earlier receipts during the year, she was not as optimistic. Mrs. Kehoe said on 9.7 million, \$100,000 isn't a particularly large variance. She said it is possible that we might even hit the budgeted amount. She said she would let the Board know when she does the year end report on how we did with that.

Mrs. Kehoe said the mortgage tax was the other key figure and as everyone knows those figures are given only twice a year. She said the check will not be received until January of 2008 but we should be about \$51,000 ahead of budget on mortgage tax. She said this is very positive. She said the actual receipt will still be less than the 2006 amounts but it was expected based on changes in interest rates and the market. She said the budget will be retained on that.

Mrs. Kehoe said for the General Fund, it should be well within the budget for 2007. She said there was projection of about a \$384,000 use of fund balance and it should be closer to only \$300,000 use of fund balance. She said the good news is that this is pretty much an affirmation of the estimations that were used when the 2008 proposed budget. She said they tried to be conservative with the figures and with what the Board has just adopted tonight it looks like it should be on target for hitting that based on these results for 2007.

Mrs. Kehoe said Highway, Water and Sewer include projections for the results on the funds. She said they are a little bit harder to predict only because there are unexpected operations expenses that pop up from time-to-time – like weather related things and storms and things like that – but at this point it looks like it should be on target for hitting the budget on that even though the water and sewer rent revenues are a little bit below expectation, there are corresponding reductions in expenditures. She said as a whole, she feels we should wind up where we expected with the budget.

Mrs. Kehoe said she would be happy to answer any specific questions. Supervisor Cunningham asked if there were any questions for Comptroller Kehoe. Councilman Plummer said he had an observation. He said there has been a lot said recently about the use of the fund balance to keep the property tax rate as low as we proposed and adopted tonight – a 2.5 percent rate increase. He said he wanted to point out that when you look at the fund balances that exist and the ones he had in front of him, the General Fund and Highway Fund, you are looking at fund balances at about 27-28 percent. He said that is an extremely healthy fund balance. He said the purpose of the fund balance is to when money is needed during difficult times or go through certain periods where there may be certain short falls, that is when you access those fund balances.

Councilman Plummer said he feels it was very responsible to do what the Board did. He said the tax base is held low and he thinks the less than 3 percent tax increase was an excellent goal and they maintained fund balances that are in excess of 25 percent. He said that is a very healthy situation. Comptroller Kehoe noted those are there to be the safety net. She said especially since 70 percent of our revenues are coming from those economically dependent sources. She said that

could warrant having the higher fund balance so it is an alternative to raising taxes. Councilman Plummer said there are many communities that do not even come close to maintaining a 15 percent fund balance. He said he thinks it is an important part of budgeting that people need to realize. He said you talk about deficits and surpluses, the key is to try to make sure you have a fund balance that is at a level where you can manage it where you can use it to keep costs down. He said he thinks that was done very well during this budget process. Supervisor Cunningham thanked Mr. Plummer.

Councilman Dawson asked Comptroller Kehoe about the report on the sales tax revenue being very close to the budgeted amount for 2007 – she asked if this still supports the projections for next year. Comptroller Kehoe said yes. Mrs. Dawson said she believed there was a one percent increase over 2006. Mrs. Kehoe said yes. Councilman Dawson said in this case we are right on target asking if this was correct. Mrs. Kehoe said they try to use conservative estimates on the revenues. Councilman Dawson said it is always better to have good news.

Councilman Kotary said he had a question probably directed toward Mr. Cansler and Mr. Deyoe. He said it was regarding the last bullet point on water and sewer usage charges being below the last years charges primarily from consumption reductions by large commercial customers. He asked which ones and how much and is this a trend or something that just happened this year and we expect to level off. Public Works Commissioner Cansler said he would have to check on that to see if it is a trend. He asked Mr. Deyoe if he knew. Town Engineer Deyoe said he did not know which actual ones are down. Comptroller Kehoe said those are cyclical in nature. She said she has maintained trending on the water rents revenues for at least a decade. She said it tends to vary based on weather conditions, whether it is dry or wet, that will affect your sales. She said it is also affected based on large industry. She said Selkirk Cogen is one of the major customers of the water district and when they are going through shutdowns they use less water. She said you see the cycles going through. She said she does not think it is anything that is signifying a long term trend that is a problem. She said she thinks it is just the nature of water sales within the Town of Bethlehem. Councilman Kotary thanked Comptroller Kehoe.

Supervisor Cunningham asked if there were any other questions and thanked Comptroller Kehoe.

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The Supervisor said before public comment, he had a few brief announcements. He said one is that the roundabouts are now open and people have had the opportunity to drive through them. He said there has been one bone of contention and that is the roundabout at Blessing Road. He said the Town worked very hard with DOT to get that opened. He said they promised originally 8 weeks. He said it was well out beyond the 8 weeks but they did open it at 4:00 p.m. today.

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The Supervisor also mentioned the Chief of Police, Louis Corsi, was elected President of the Board of Directors of the Zone 5 Regional Law Enforcement Academy. He said the Town of Bethlehem joins with other municipalities in the Regional Law Enforcement Academy to train new officers. He said this has been a big help to municipalities in helping to reduce the cost of doing training for new officers. He said it is a real feather in the Chief's cap that he was elected President for a 2 year term. He wanted to congratulate him.

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Supervisor Cunningham mentioned there is a new small exhibit in the hallway on the building that is being renovated in Slingerlands. It said it is the old Lithograph building and it is being renovated inside. He said our Town Historian, Susan Leath, has obtained some old photographs of that and done some historical research resulting on the exhibit on the walls in the hallway. He said he thought it was a real nice exhibit.

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Councilman Messina said he wanted to comment on Comptroller Kehoe's submission of the October 31, 2007 interim financial report and the action on the budget. He said he thought it was appropriate to say something like whenever we do something really well, balance comes into it. As with the comprehensive plan, he said, so with the budget. He said there are a couple points he would like to make and things he very much supports. He said keeping the property tax increase to 2.5 percent was a real balancing act and finding a way to provide our employees – and they are the most valuable resource we have – a 3 percent increase was part of that balancing that the Board did, absolutely essential, and he knows about all the belt tightening that went into this. He said Jack had hordes of meetings internally with staff to see where reductions could be made. He said there were some key priorities ones he could think of are another outreach coordinator in the Seniors Department because that is how the demographics are going in our Town and that position will really serve the people of Bethlehem well. Councilman Messina said there were other selective investments.

Mr. Messina noted Councilman Plummer mentioned the fund balances and they were able to effectively use a small portion yet keep the fund balances above the Comptroller's guidelines so we are in good shape. And, now they find out that the revenue results are above the estimates for the last quarter, Mr. Messina said. He said this is not far above \$51,000 but that is better than the alternative.

Councilman Messina concluded by saying everyone on the Board hears, understands and is working on the major capital issues that they have to deal with in addition to what they are already doing so he feels and he thinks the other Board members feel that putting together a comprehensive capital plan and finding out how to fund that is something that will be driven forward and they are going to keep working on some of the management improvements that they started internally. He said he would wanted to commend Supervisor Cunningham for a job well done on the budget and all of the department heads as well and cooperation of Town Board.

Supervisor Cunningham thanked Councilman Messina.

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The Supervisor asked if there were any public comments on non-agenda items. Resident Peter Bakal of Eton Drive in North Bethlehem which was mentioned a little while ago. He said he is here to complain noting they were cut off for 15 ½ weeks. He said the original schedule for the roundabout at Blessing Road, DOT's own press release, was 8 weeks. He said he talked to a couple people at DOT and they said that was a mistake. He said the residents were never notified that this was going to be longer and, in fact, there were a series of press releases or announcements either at DOT's website or the Town's website that said it was going to be late October, then November 9<sup>th</sup>, then November 14<sup>th</sup>.

Now, we all know we have to make sacrifices, Mr. Bakal said, noting this was a major complicated project but 15 ½ weeks was totally unreasonable. He said while other rotaries were being opened up and 2 press conferences were held – first at Vista Technology Park (which does not even exist yet) and a second one 2 days before the election which he would not have cared about if Blessing Road had opened up the same day. He said that was political grandstanding indicating he was sorry about that. He said the residents, as the Board may know because he said he did not think any of the Board Members live up there, Schoolhouse has been a debacle and is a County project – that was moving slowly – about to run out of days they could put pavement down and frankly he made a number of phone calls and he did not call every elected official but stated he knew others did – and he does not think if those phone calls were made, he hated to say it but he doubted Blessing Road would be open at this time. He said nobody was paying attention to this. He said he thinks the Supervisor's office from what he can see was not on top of this because when he called last Wednesday, he was referred to Mr. Sagendorph which he did not think was appropriate. He said the Chief Executive Officer of the Town should be on top of this. He said as far as communicating this to the residents, there is time as a Town to send out these nice brochures but we couldn't

even get a postcard to the residents of North Bethlehem at least telling them that the Town was doing everything in its power to get Blessing Road open.

Mr. Bakal said as the Town Board may know, these rotarys are not even completely open. He said Blessing Road has 1 lane in the rotary is open. He said there will be massive backups on Blessing Road at 5 o'clock on Monday through Friday night until that opens. He said as everyone has experienced it, the Price Chopper rotary if you've been over there at rush hour, the traffic is coming in a steady stream on the road from the left and they are already in that rotary or roundabout and you can't get in. He said until this is actually finished, there is still going to be a problem. He said in going forward, he hopes that this Town is more nimble when unforeseen projects come up with this 85 Bypass. He said for example, indicating he could be wrong on this but he can imagine people trying to get out of the Slingerlands Post Office at 5 o'clock at night are not going to be able to get out of there if somebody is trying to take a left hand turn and trying to get out. He said there isn't even a right hand turn out of the Post Office. He said he does not even know what the other unforeseen problems with these roundabouts.

Mr. Bakal said he is happy after 15 ½ weeks part of the Town again and hopes there is a little bit more foresight and follow through with these projects even though they are State projects, they took place in our Town. He thanked the Board.

Supervisor Cunningham clarified that Mr. Bakal's area of the Town was never part of the Town. He said the Town Supervisor's office was completely engaged in this project from the beginning, working with DOT to get this project completed. He said they did not set the deadlines, nor did they set the timelines with DOT. He said they set the timelines and they did work very closely with them.

The Supervisor said the timing of the ribbon cutting for Route 85 was set by DOT, not by the Town. He said it was to open Route 85 it was not to open all of the roundabouts. Mr. Bakal noted he appreciated that.

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Ms. Linda Jasinski asked if we could get the money back on the PA system? You still can't hear very well in back although for about 30 seconds they got a good amount. Supervisor Cunningham said it was working good the other day. He said there was a senior program and it worked very good for that, noting he agrees.

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Mr. Robert Jasinski said as Mr. Bakal was talking it came to his mind that the new bank on the end of Bender Lane and Route 9W has a one way almost triangle as you come up Bender Lane. He said immediately you have the driveway entering the bank so there will be a problem there. He said he hopes he does not have the accident there. Supervisor Cunningham said he hoped he does not either. Mr. Jasinski asked if there is someway that the Engineering Department or the Highway Department look at that area where you get a west road coming, a south turn into the bank, an east road running on Bender Lane, a south road coming out of Walmart, a north road lane going into Walmart. He thanked the Board.

Supervisor Cunningham said when the project was started and at the groundbreaking, he questioned that issue but he will ask someone to take a second look at it. Mr. Jasinski said he was assured it was going to work because he was assured that the entrance was not going to be so close to that diamond. Supervisor Cunningham said he has not gone over to see where it was put but he had the same concern.

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Mr. Norman Moran said the water in the Town of Bethlehem is very heavily chlorinated. He said his water stinks from chlorination and tastes lousy. He said he went out and bought a Brita unit and put it in to filter the water and he is now waiting for a plumber to come in and put filtration units in his house. He said Steve Lobel who lives across the street from him is doing the same thing. He said he was in Lowe's buying a filter element and a guy said it is unbelievable the

number of people running in buying filtering units. And, he said, then he hears people tell him it is prudent to spend 1.3 million dollars of surplus money in the water budget rather than using that to put in new pipes. And, he said he just does not understand the philosophy behind here. He said the Board thinks it is good management, he does not. He said the Town keeps running deficit and the people are picking up the expense of trying to purify the water that the Town is raising the rates on. He said he just does not understand where the Board is coming from. He asked the Supervisor if he could tell him where they are coming from, noting he would appreciate it.

Supervisor Cunningham said okay. Mr. Moran said he does not appreciate the fact of going out and spending money to purify the water so he can drink it. He said on top of that being charged more money every year for the water. He said it is time somebody took a stand on this and did something about the water pipes, or furnish him with a unit in his house with the water so that he does not have to worry about buying filtration units and everything else.

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

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The motion was made by Mr. Messina and seconded by Mr. Plummer to adjourn the regular Town Board meeting at 6:55 p.m. The motion was carried by the following vote:

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

Noes: None.

Absent: None.

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Town Clerk