

TOWN BOARD
NOVEMBER 25, 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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Supervisor Cunningham welcomed everyone to a meeting of the Bethlehem Town Board. He asked Councilman Dawson to lead the pledge of allegiance. The Supervisor thanked Mrs. Dawson and asked everyone to remain standing for a moment of silence in respect to Parker Mathusa, Planning Board Chairman, who passed away last week. He said Mr. Mathusa was a frequent visitor to the Town Board meetings. He said until he became ill, he was at every Town Board meeting that he has run since becoming Supervisor.

Supervisor Cunningham thanked everyone and asked if there were any comments on agenda items. Mrs. Marie Capone said she would like to address Mr. Potter. She said when they meet in the Supervisor's office before a Town Board meeting, was that an illegal meeting. Town Attorney Potter said all he could say is the Town Attorney was not there it could not possibly be an official meeting. He said they must have been socializing. Mrs. Capone said didn't Mr. Freeman teach you that the agenda has to be on the wall 24 to 48 hours before a meeting. Town Attorney Potter said he would have to go back and look at it, he did not know. Supervisor Cunningham noted Town Clerk Newkirk said she does not believe it is required but they will go back and look at it. Town Clerk Newkirk said Town Topics from the Association of Towns just had a small clip on that talking about the fact that the Board does not even have to provide an agenda. She said it is not required by law. Mrs. Capone said the law says it, noting they can ask Mr. Potter when he comes back another time.

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

HEARING BEGAN: 6:07 p.m.

SUPERVISOR CUNNINGHAM: The first item we have is the public hearing regarding the establishment of the 2009 Sewer Tax Rolls.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to waive the reading of the call of the hearing with direction to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. 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 NEWKIRK:

NOTICE OF PUBLIC HEARING

WHEREAS, 2009 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 6:00 p.m. on Tuesday, the 25th day of

November 2008, 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 12th day of November 2008.

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 Mr. Kotary, seconded by Mrs. Dawson and duly adopted by the following votes:

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

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) 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 November 12, 2008 and that I posted the Notice of Public Hearing on November 12, 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

25th day of November, 2008.

Julie S. McNeil

Notary Public

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SUPERVISOR CUNNINGHAM: Mr. Cansler do you want to do a presentation on this item?

MR. CANSLER: I was not planning on it.

SUPERVISOR CUNNINGHAM: I thought you said you had something.

MR. CANSLER: No.

SUPERVISOR CUNNINGHAM: Can you just give....

MR. CANSLER: This is an opportunity if anyone wants to -- the rolls are back there if anyone wanted to say anything about them, this would be their opportunity to question anything on the sewer rolls. Basically if anybody wants to challenge their front footage, this would be the time to do it.

SUPERVISOR CUNNINGHAM: At this meeting?

MR. CANSLER: Yes.

SUPERVISOR CUNNINGHAM: Is there an opportunity after this meeting?

MR. CANSLER: Well, the sewer rolls have been available for the last few weeks

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if anybody wanted to come in and look at them. I don't know if anybody did or not, it was publicized in the Spotlight that they could do that.

SUPERVISOR CUNNINGHAM: Okay.

MR. CANSLER: If anybody wants to challenge them...

SUPERVISOR CUNNINGHAM: Thanks. Does anyone from the public have comments on the 2009 Sewer Tax Rolls? Hearing none, I will ask for a motion to close the public hearing.

The motion was made by Mr. Kotary and seconded by Mr. Hennessey to close the public hearing regarding the 2009 Sewer Tax Rolls at 6:10 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.

Supervisor Cunningham asked if the Board wished to vote on adoption of the 2009 Sewer Tax Rolls. The following resolution was presented for adoption:

Resolution No. 48

WHEREAS, assessment rolls for the year 2009 have been prepared by the Town Board for and in connection with the Bethlehem Sewer District, the Special Sewer District No. 1 and the South Albany Sewer District, which said rolls were completed and filed with the Town Clerk of said Town, and

WHEREAS, due notice of the completion of the assessment rolls and of the time and place when and where this Board would meet to hear and consider any objections that might be made to said rolls and for the purpose of reviewing, correcting and amending the same, was duly given by the Town Clerk by publication of due notice in THE SPOTLIGHT, a newspaper published in the County of Albany and the Town Board met at the time and place specified, and the hearing was duly had upon said assessment rolls,

NOW, THEREFORE, BE IT RESOLVED, that said assessment rolls be and they hereby are approved, affirmed and adopted by the Town Board as filed.

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

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

Noes: None.

Absent: None.

Supervisor Cunningham said the next item was the presentation by the Town Comptroller of the October 2008 interim financial statement. He said there was a packet at each Town Board Member's desks on this presentation. Comptroller Traylor said this is the first presentation to the Board and she is here to talk about the October 31st financial quarter year end. She apologized for the lateness in the report that was provided but there is a summary of where we are to date in terms of the revenues and expenditures. She said the General Fund is actually higher than anticipated noting there was budgeting for a deficit of \$875,000 of the Town's fund balance and the good news is based on the crystal ball and what they believe might be happening in the next month, they will come in not breaking even but they will be at a favorable variance which means they will use less of the money in the general fund than they had anticipated.

Mrs. Traylor said Highway Fund projections were at a \$307,000 fund balance to be used and again, there is a favorable report and anticipating it will not be as bad as they thought. She said they will be using \$164,500 which is a favorable variance for the Town. She said Water Fund projections had anticipated

using \$974,000 but it will be a little more into the fund balance by \$58,000 or \$60,000 more than expected. Finally, Mrs. Traylor said, the Sewer Fund projections again was anticipated at using \$397,000, good news is they have a favorable variance and will use \$99,000 to \$100,000 based on the analysis as of today.

Mrs. Traylor said this means there are a couple things. She said there are 2 big items that they did not know anything about at the last meeting and that is the sales tax revenue and the mortgage tax revenue. She said they have both come in slightly higher than anticipated. She said the 2008 budgeted amount for sales tax revenue was \$9,685,000 and we are at \$10,000, 022. She said assuming the 4th quarter tax that they are expecting, which is slightly lower. Supervisor Cunningham clarified that we got \$2,000 in actual, asking if that was an actual number not a projected number. Mrs. Traylor said that was correct, not an actual number and their expectation is based on having a higher third quarter result but that is probably attributed to the gasoline prices. She said they expect the 4th quarter will be slightly less and they have adjusted that downwards. She said in terms of that there is a schedule that can be used to see the first, second, third and fourth quarter sales tax results. She said they are anticipating lower income for the 4th quarter but given that prediction/best guess, they still think they are going to come in over budget on the sales tax revenue which is good news.

Comptroller Traylor said as far as mortgage tax revenue, we will receipt about \$604,000 and that's not part of the schedule that puts us over what was budgeted. We have a \$300,000 favorable variance for mortgage tax revenue and that again is good news. Mrs. Traylor asked Mrs. Kehoe in terms of the mortgage figure if that was through September 30. She said the mortgage tax revenue figure is based on mortgage tax collected through the end of September and does not factor in what might be happening to the economy in October, November and December.

Mrs. Traylor said because sales tax is such an important figure they thought they would give a graph to give a sense of where we have been since 2000. She said it is hard to see but the dark pink color is the total amount of sales tax the Town has received and the light pink is the budgeted amount. She said the budget and the totals are fairly close and fairly consistent.

Mrs. Traylor said she wanted to let the Board know that she has spoke to Parks Administrator, Nan Lanahan, and Colonial Acres Golf Course has come in with positive income of approximately \$35,000 which is good news. She said that is based on 12,361 rounds of golf. She said the good news is we are coming in where we had expected and given everything that is happening in the economy, she thinks this is the best we can do today. She said they will continue to monitor where we are at on a daily, weekly and quarterly basis. She said she will be looking at it every day.

Supervisor Cunningham asked if there were any questions for Comptroller Traylor. Councilman Messina said he tried to add up the numbers and the pluses and minuses from all funds looks like about \$1.4 million dollar improved situation. He said he realizes there are some projections involved there and asked if that was about right. Comptroller Traylor said that is the best guess. She said they have looked at every category, every fund, every revenue source, every expenditure and they are hoping they have been conservative in their estimates so she is thinking yes, they can say that is an improved situation for the Town. Mr. Messina thanked Mrs. Traylor.

Councilman Hennessey asked if there were any indicators that give her some idea of where we will be this time next year. Comptroller Traylor said she wishes there was. Mr. Hennessey said does she see things changing the landscape of revenues – he used gas prices as an example, assuming that gas prices right now are \$2.10 or whatever and the end of September they were at \$4+, does that play into the revenue estimates and how this will play out next year. Comptroller Traylor said it does although she thinks with the decrease in the gas prices, they have seen an increase in the price of other items. She said gasoline drives the sales tax figure

in a big way and it really is difficult to look forward a year and wonder where we are going to be at. She asked the Supervisor if he had any comments. Supervisor Cunningham commented that as gas prices go down and people have more disposable income, they could turn around and buy tvs which would again add to the sales tax revenue. He said it is really difficult and it is a matter of where the economy goes and anybody watching the news today knows that it does not look good. He said the Albany County area has been somewhat insulated from the National economy but how it impacts us over the next year is difficult. He said he keeps telling people he did not know that gasoline prices would be \$4 in July and certainly not know they would be \$1.99 in November.

Comptroller Traylor said she thinks it will be interesting to see where we end up this holiday season with consumer spending and trends. She said she thinks that will be something to keep an eye on. Supervisor Cunningham said the one comment he would have is that from his perspective as the Chief Financial Officer of the Town, he is very cautious about our expenditures next year. He said he is already working with department heads to take a look at to see what can be taken out of the budget or not spend in the budget next year if revenue streams do not materialize like sales tax and mortgage tax as they were budgeted. He said they are preparing for the worst and hoping for the best.

Councilman Dawson asked about the Water Fund projections. She asked if this was solely due to what was previously discussed at previous meetings in terms of decreased usage. Commissioner Cansler said it was noting the reason the revenues are down on water is primarily due to the wet summer and just a lack of sales so to speak. Mrs. Dawson asked if there was anything else like unexpected or surprises. Mr. Cansler said no, it is just the decrease in the expected usage in sales of water here in the Town. Mrs. Dawson thanked Commissioner Cansler.

Councilman Kotary wished to make 4 quick points and ask a question of Comptroller Traylor. He said the 4 points are all related to the very good work that Mrs. Traylor is doing and Mrs. Kehoe has done in terms of having realistic, if not, conservative revenue estimates. He said he just wanted to point out a few things that he noticed – 1. That the sales and mortgage actual are pretty close, noting as he is looking at it, they are closer to next year's projected than to this year's projected which means that he feels hopeful that despite things around us may be falling apart with regards to the economy, that we will likely be somewhat insulated but thanks to some good budgeting and fiscal restraint we are on the mark. He said it seems that sales and mortgage tax what they have estimated are going to come in pretty darn close. 2. That 8 out of 10 years he thinks it is interesting that our sales tax trend have exceeded what has been estimated. He said again, he thinks, goes to the point that we all should feel good about where we are in terms of revenue. 3. That expenditures, if he is reading the lines correctly, in each of the 4 major fund categories – General, Highway, Water, Sewer – also goes to again to sound fiscal management on behalf of the Town in that they not only have a real good handle it seems on the future revenue streams but also they have done a lot about doing all we can to keep expenditures within reason, if not, down.

Councilman Kotary said the last note is that 3 out of 4 funds, relative to where they budgeted, are coming out in the plus and he thinks that also speaks again to a thank you to Mrs. Kehoe, Comptroller Traylor and others who have contributed to the sound fiscal management.

Councilman Kotary asked about the great slide on sales tax trends, mortgage trends and maybe this is a question actually that can be asked of Mrs. Kehoe, do we see a similar conservative mortgage based trend as he is looking at what might be. He asked if they should feel pretty comfortable that as with sales tax trends that we are likely to have estimated a little below and, therefore, mortgage tax may exceed the expectations for the next couple quarters. Mrs. Kehoe said mortgage tax is a little more difficult because that only comes in to the Town twice a year. She said you really cannot gauge it until you get to the end of that measuring point. She said this region has been a little bit insulated, the Town has been a little bit insulated relative to home sales and homes have maintained their values. She said it may have slowed down a little bit but it still is relatively strong. She said she does not

know if there is that much refinancing activity going on with the credit market such as it is. She said those are major factors that influence how much we are going to collect in mortgage tax.

Mrs. Kehoe said conservative budget estimates were used with that so the hope is that we will achieve that. She noted that as Mr. Kotary knows, the goal is always to go a little bit low on those revenues so anything extra that you get is there as a buffer for the fund balance, capital projects or other things that the Board might wish to do with that and if you can come in under on your expenditures. Historically, we have tried to come out at about 95 percent of budgeted expenditures, according to Mrs. Kehoe, so that you have some room for the inevitable unexpected things that happen with the budget. She said hopefully it is a good plan that will work well for Comptroller Traylor and the Town in the coming year. Mrs. Traylor thanked Mrs. Kehoe for answering the question.

Supervisor Cunningham asked if there were any other questions from the Board. He thanked Comptroller Traylor.

The next item on the agenda was to approve the Town Board minutes for October 22, 2008.

The motion was made by Mrs. Dawson and seconded by Mrs. Kotary to approve the Town Board minutes of October 22, 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.

The next item on the agenda was to approve the Town Board minutes of November 12, 2008.

The motion was made by Mr. Messina and seconded by Mr. Hennessey to approve the Town Board minutes of November 12, 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.

The next item was a request from Nan Lanahan, Administrator, Parks and Recreation Department, to approve a resolution to spend up to \$600,000 from the Recreation Reserve Account, subject to a permissive referendum, for engineering services, building improvements and replacement of the filtration system at the Elm Avenue Park pool complex. Supervisor Cunningham said they have been working on for a while regarding the replacement of the filter system at the Park. He said they have a project going forward and need to do a permissive referendum to proceed.

The following resolution was presented for adoption:

Resolution No. 49

PUBLIC NOTICE

NOTICE IS HERBY GIVEN that the Town Board of the Town of Bethlehem in the County of Albany, State of New York has on the 25th day of November 2008, duly adopted, subject to a permissive referendum, a resolution as follows:

WHEREAS, the Town Board of the Town of Bethlehem has determined that it is necessary to replace and install new pool filtration, recirculation and water treatment equipment and make improvements to the filtration building at Elm Avenue Park , and

WHEREAS, it is estimated that the costs of said project will not exceed \$600,000 and

WHEREAS, in recognition of these needs, funds for said project are in the Recreation Capital Reserve Account; and,

NOW, THEREFORE, BE IT RESOLVED that it is in the public interest to purchase and install the equipment and make improvements to the filtration building; and,

BE IT FURTHER RESOLVED, that the Town Board authorizes the expenditure of the reserve monies to fund this project up to a maximum amount of \$600,000 and,

BE IT FURTHER RESOLVED, that the Town Comptroller is authorized to expend from the Recreation Capital Reserve Account the funds necessary up to \$600,000 in said reserve fund; and

This resolution shall be subject to a permissive referendum, as permitted by law.

The motion to adopt the resolution was made by Mrs. Dawson and seconded by Mr. Hennessey.

Councilman Messina said this is a pretty big number and knows a lot of work has been done on this and as he reviews the data and the age of the current system at 35 years of age -- falling piece of infrastructure, problems, higher maintenance costs and possible shut down in mid-summer if nothing is done which could affect revenues -- it seems like a good deal to make this investment.

Councilman Hennessey said there were 2 other questions. In the Memorandum that outlined the project, Mr. Hennessey said it says that there is a first stage and a second stage asking if this covers both stages. Administrator Lanahan said it does. Supervisor Cunningham said this is the whole project.

Councilman Hennessey asked if there is a contingency plan in case the work is not completed by the time the pool is to open. The Supervisor said they are going to have the fire department put the fire hose back out. Mrs. Lanahan said the fire hose will be in the parking lot again. She said there really is no contingency. She said it has to be there to open, that is how the pool operates. The Supervisor said right now the schedule indicates that we have enough time to get this project done. He said the engineers and construction people are all on board as is Town Engineer Deyoe. Mr. Deyoe said it is top priority for them and there is about 2 or 3 weeks schedule contingency built in and actually doing it in 2 phases to advance the lead time for the material purchase so they do not get into schedule conflicts. Supervisor Cunningham said it also should be noted that this project has been going on for about 1 year because they knew once this was started it was a short window to get going.

Supervisor Cunningham asked if there were other questions. Councilman Kotary said just a comment, he thinks this is something that the Board knows they have to do. He said it is a public safety issue and commended Mrs. Lanahan and Mr. Deyoe -- who have worked very hard on this. He said he knows they are trying to do this with a strict time line with the least amount of expense as possible. He said again, although it is a big number, it will be an even bigger number if they do not resolve it now. He said this is on the list of many things that need to be addressed in a timely manner and efficient manner. He said he looks forward to having the pool open in 2009. He thanked everyone for their hard work in advance.

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The resolution was duly adopted 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 Highway Superintendent, Gregg Sagendorph, to authorize the Supervisor to sign the Solid Waste Management Partnership Planning Unit Recycling Coordinator Intermunicipal Agreement. The Supervisor said the Town of Bethlehem is part of the ANSWERS program for solid waste management and ANSWERS relies on the Rapp Road Landfill for the City of Albany. He said the City of Albany has been working with DEC to expand the landfill to accommodate, as they call it, one more cell. He said this will give about another 6 ½ years of life out of the landfill. He said there are 8 years left in that landfill. He said the Town and the City needs that. He said in conjunction with all of that, DEC has come back to the City and to ANSWERS and said they need to hire a Solid Waste Management Coordinator and need to enter into the Solid Waste Management Partnership which will require all municipalities as part of ANSWERS to enhance their recycling program.

Supervisor Cunningham said Town of Bethlehem is probably one of the forerunners in recycling so it will not have a large change to what is being done but they want to participate in this. He said the first request was from the

Superintendent of Highways to authorize the Supervisor to sign the Solid Waste Management Partnership Planning Unit Recycling Coordinator Intermunicipal Agreement.

The motion was made by Mr. Messina and seconded by Mrs. Dawson to approve the Supervisor signing the Solid Waste Management Partnership Planning Unit Recycling Coordinator Intermunicipal Agreement. 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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There is a second authorization that came in yesterday in conjunction to this that is not on the agenda, according to the Supervisor, but it will allow the Supervisor to sign an agreement authorizing the City of Albany to be Lead Agency in SEQR for ANSWERS. He said it is to authorize the Supervisor to sign a letter assigning Lead Agency status for the new Solid Waste Management Partnership Planning Unit to the City of Albany.

The motion was made by Mrs. Dawson and seconded by Mr. Kotary to authorize the Supervisor to sign a letter assigning Lead Agency status for the new Solid Waste Management Partnership Planning Unit to the City of Albany.

Councilman Dawson asked if there was a cost associated with the agreement. Supervisor Cunningham said there is an additional cost to the Town of Bethlehem of approximately \$15,100. Mrs. Dawson asked if that was a year. The Supervisor said it was per year and the way this is being run is the same way the County is running their program and that they have allocated the cost of this position back out to all the members based on population. He said the City of Albany will be paying the largest portion of the salary, Guilderland and Bethlehem will be paying \$15,100. He said it is based on everyone's participation. He said if someone does not participate, it could go up and based on residency.

The Supervisor said to give a little more information on this, he and Highway Superintendent Sagendorph met with members of ANSWERS yesterday and they are looking at what will be done in 8 years. He said there will be a lot of discussion in the next couple of years about how they will approach all of the solid waste management. He said they may go to an authority or other things like that.

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 the acknowledgement of the Quarterly Franchise Fees from Time Warner Cable in the amount of \$126,929.84 for the quarter July through September 2008.

The following item was the acknowledgement of the Annual Franchise Fee from Mid-Hudson Cable, Inc., in the amount of \$203.40 for the year 2007.

Supervisor Cunningham made a note that they talk about sales tax and other revenue streams, the franchise fee accounts for nearly half a million dollars of the annual budget. He said they do appreciate the residents of Town who do have cable and go with Time Warner or Mid-Hudson Cable. He noted go out and get more cable tvs. Councilman Kotary asked if it was just cable services or does it include cable/internet or cable phone. Supervisor Cunningham said it is just cable tv.

The next item was a request from Deputy Commissioner of Public Works, Erik Deyoe, to grant an easement to National Grid for Thatcher Street Pump Station.

The motion was made by Mr. Hennessey and seconded by Mrs. Dawson to approve the granting of an easement to National Grid for Thatcher Street Pump Station 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 the Deputy Commissioner of Public Works for the acceptance of right-of-way and easement conveyance for Carriage Hill Subdivision, Phase 2A.

The motion was made by Mr. Messina and seconded by Mr. Kotary to approve the acceptance of a right-of-way and conveyance for Carriage Hill Subdivision, Phase 2A 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 next item was a request from Town Planner, Jeffrey Lipnicky, to approve Building Project Approval No. 35, Amendment 3, Sunroom addition at 14 Sedgewyck Drive, Delmar.

The motion was made by Mrs. Dawson and seconded by Mr. Hennessey to approve Amendment Number 3, Building Project Approval No. 35 to permit a sunroom addition at 14 Sedgewyck Drive, Delmar as requested by Jeffry Lipnicky, Town Planner. The motion was passed by the following vote:

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

Noes: None.

Abstain: Mr. Messina.

Absent: None.

The following item was a request from Town Planner, Jeffrey Lipnicky, to adopt a SEQR Negative Declaration for Building Project Approval No. 35, Amendment 3 to permit sunroom addition at 14 Sedgewyck Drive, Delmar.

The following resolution was presented for adoption:

Resolution No. 50

**TOWN BOARD
TOWN OF BETHLEHEM
SEQR RESOLUTION**

DETERMINATION OF SIGNIFICANCE/NEGATIVE DECLARATION
APPLICATION TO AMEND BUILDING PROJECT APPROVAL
WALDENMAIER PLANNED RESIDENCE COMMUNITY
AMENDMENT NO. 3 TO BPA NO.35

WHEREAS, the Town Board of the Town of Bethlehem has received an application from Robert Zittel, the owner of property located at 14 Sedgewick Drive, for an amendment to Building Project Approval No. 35 which would allow construction of an 11' x 11' sunroom addition on the property; and,
WHEREAS, the Town Board has received a short Environmental Assessment Form ("EAF") for the project with Part I completed by the applicant; and,
WHEREAS, the State Environmental Quality Review Act (SEQR) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund, or approve an action until it has complied with the requirements of SEQR; and,

WHEREAS, 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 SEQR, (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)(4) indicates that for Unlisted actions an agency is not required to conduct a coordinated review with other involved agencies (provided that it determines the action will not have a significant impact on the environment) and may proceed in its SEQR review as if it were the only involved agency; and,

WHEREAS, the Town Board has independently considered both the information provided in the EAF and application;

NOW, THEREFORE, BE IT RESOLVED,

that the Town Board hereby determines that:

- 1) approval of the proposed Building Project Approval Amendment constitutes an Unlisted action which is subject to SEQR,
- 2) the proposed action does not involve a federal agency, or any another agency,
- 3) the proposed action is not located in Agricultural District, and
- 4) a short EAF is adequate for determining the significance of the proposed action; and,

BE IT FURTHER RESOLVED,

that the Town Board hereby declares it is lead agency with respect to SEQR review of the proposed action; and,

BE IT FURTHER RESOLVED,

that based upon its review of the project, the EAF, review of the proposal by Town staff, and comparison with the Criteria for Determining Significance found at 6 NYCRR Part 617.7(c), the Town Board hereby finds that approval of **Amendment No. 3 to BPA No. 35** 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 proposed amendment does not significantly change the Waldenmaier Planned Residence Community or any of the reasons upon which the Negative Declaration was issued for the project by the Town Board on April 10, 2002.
2. The project entails the construction of a small 11' x 11' sunroom addition to the structure at 14 Sedgewyck Drive, utilizing the same exterior finish materials as the existing structure.
3. No new areas of potential concern have been identified.

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 Department of Economic Development and Planning is hereby authorized to file any and all appropriate notices so that the intent of this Resolution is carried out.

On a motion by Mrs. Dawson, seconded by Mr. Hennessey, and by a vote of 4 for, 0 against, and 1 abstention, this RESOLUTION was adopted on November 25, 2008.

Supervisor Cunningham noted this was completion of the official agenda items. He asked if there was any new business from the Board. There was none.

The Supervisor noted the following announcements:

- Thanksgiving holiday and the Town offices will be closed Thursday and Friday;
- Holiday Parade, December 5 at 6 p.m. and will start at Town Hall and go to the Four Corners including the lighting of the holiday tree;
- Town Board meeting December 24 has been cancelled and the last meeting for 2008 will be held December 10;
- Food pantry donations are accepted to help supply the pantry for our residents. This is a particularly needy time of year. He said there is a

Hanaford fund-a-feast for \$10 donation they provide the exhibited package. He said there were enough donations that we are helping a food pantry up in the hilltowns.

- Beginning December 1, 2008 the online registration for Parks and Recreation Department will go live. He noted for the first time ever, you can register online through the website.

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The Supervisor asked if there were any comments on non-agenda items. Mrs. Marie Capone said 2 things. First yesterday afternoon down on Delaware Avenue a woman fell and the highway truck was going by. She said they stopped, got out, they all took care of her, they called the ambulance and stayed with her until the ambulance came. She said when people complain about the highway, remember that. Supervisor Cunningham said he would remember that and thanked Mrs. Capone.

Mrs. Capone asked what happens if we have bad weather, what do you think we could do if we lose the power. She said this was always done previous administration and they knew what to expect. She said this administration has never had guidelines. Supervisor Cunningham noted there is the emergency management office and they can provide the guidelines. Mrs. Capone asked what happens at 2 o'clock in the morning, what are they supposed to do call emergency. Supervisor Cunningham said anyone can call 911. Mrs. Capone said she does not think that is a 911 call. She said that is a local call and 911 is for an emergency, a big thing. Supervisor Cunningham said that is an emergency and they will bring her over to the call center and they can let anyone know where to go or they will make sure you are safe. Mrs. Capone said she is not talking for herself, talking for the population. She said they have lived through an ice storm when they all end up eating at the Elsmere Fire House, sleeping in here and we have to be able to know what to do. She said it is not for us to provide but for the Board to decide. Supervisor Cunningham again noted dial 911.

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The Supervisor asked if there were any other comments.

Administrator, Nan Lanahan, Parks and Recreation Department, said she wanted to make everyone aware that a project is coming about rather quickly but the Simmons Road parkland planning effort will hold a public meeting on December 9, 2008 at the Elm Avenue Park office building at 7 p.m. She said they will be having fliers and an ad in the Spotlight and the Ravena News Herald along with on the website. She said essentially they have a contract with Clough Harbour that is working with them to develop a master plan for that site. She said they have invitations going out to the residents in the neighborhood and anybody else who is interested in coming and might have some feedback. She said she wanted to get the date and announcement out there. Supervisor Cunningham thanked Mrs. Lanahan.

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Mrs. Capone said when she was getting home she was going to look for the Supervisor's phone number and call him at 2 o'clock in the morning. Supervisor Cunningham said he would look forward to that. Mrs. Capone said she will tell him it is a 911 call.

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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. Kotary and seconded by Mrs. Dawson 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.

The motion was made by Mr. Kotary and seconded by Mrs. Dawson to adjourn the regular Town Board meeting at 6:42 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

EXECUTIVE SESSION

The motion was made by Mr. Kotary, seconded by Mrs. Dawson and passed to approve the reduction in assessed value for the T.E. Products Pipeline LP from \$2,702,368 to \$2,498,339 in settlement of a tax certiorari proceeding. The motion was passed by the following vote:

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