

TOWN OF BOLTON

TOWN BOARD MEETING

DECEMBER 29, 2009

PRESENT: Supervisor Kathy Simmes, Councilmen Jason Saris, Owen Maranville and Robert MacEwan, Councilmember Deanne Rehm, Town Clerk Patricia Steele and Counsel Michael Muller

The meeting was called to order at 6:31pm.

PLEDGE: Counsel Muller

ANNOUNCEMENTS:

Tax rates have been set for the upcoming land tax bills. Tax bills will be arriving late this year.

2010 rates 2009 rates

County \$4.561 4.111

Town .747 .734

Light .104 .109

Fire .426 .432

PUBLIC IN ATTENDANCE:

Rolf Ronning

Rolf Ronning stated that he wanted to discuss the possibility of having a ski area located in the Town of Bolton in the Westwood Forest West Subdivision off Hendricks Road. He provided a large map of the 11 lot subdivision. He stated that 4 of the lots are used by Adirondack Extreme Adventure Park which is extremely successful. Across the street from that are 5 residential lots. However, he has had difficulty because most people do not want to build next to a commercial property. One lot was going to be used by Bolton Central School, which did not work out and the other lot is what he would like to discuss. Rolf Ronning indicated that the area would be ideal for the proposed location. He stated that the problem that he is running into is that part of the lot is located in the RR10 zone, which will not allow for a ski area.

Rolf Ronning stated that he feels that this is an ideal location for a ski resort. There is a 550' vertical drop from the highest point to where the proposed trails would converge. He stated that it is not huge but would be similar to West Mountain or Tupper. He stated that inexpensive day and night skiing would be available. The trails would range in length from 2000' -5000'. He stated that Alderbrook runs along the border of the property which would be conducive to snow making. He stated that this water source is not part of the Lake George watershed, but rather leads to the Schroon River and the Hudson. He stated that the location is perfect since it is located just off Exit 24 of the Northway. Having the ski area would not only provide additional revenue to the Town but also provide employment opportunities as well.

Rolf Ronning stated that he appeared before the PB for some input. However the PB stated that they could not address the project due to an alleged violation. That issue has been cleared up and he returned to the PB at the last meeting and was told by Counsel Muller that this would require TB action because the PB cannot change the zoning. Rolf Ronning stated that Counsel Muller suggested approaching the TB because they are the only legislative body that can make the administrative change. Rolf Ronning explained the zoning constraints in more detail. The property falls within 2 zones; LC25 and RR10. The LC 25 zone does allow for ski areas, however the RR10 does not.

Rolf Ronning stated that his impression was that Counsel Muller was suggesting seeking permission to possibly enlarge the area of LC25 if the Town felt it was a viable idea.

Counsel Muller explained that Mr. Ronning has a few options in which he could go about this proposal: 1) to obtain a use variance from the ZBA, 2) seek a zoning change to incorporate a larger area into the LC25 zone or 3) create a Planned Unit Development (PUD). Counsel Muller stated that a use variance is a very difficult and long process and most times is not successful. He stated that this would not be an advisable route. The zoning change would be considered a legislative act which can only be done at the TB level. He stated that this would involve PB input and APA approval. He feels that this is one way that they could approach this matter. The third option is almost ideal and what PUD's were developed for.

Rolf Ronning stated that he does not have the money to invest in engineering and surveying to come up with a full plan including stormwater. However, he has investors interested in this project if the Town feels that it is a viable idea.

Rolf Ronning stated that he has spoken to Lynn and David Johnson, owners of Adirondack Extreme, regarding this idea and they are both in favor of the proposal. He stated that he understands that this will be a long process especially since the APA will more than likely be involved. Counsel stated that regardless of the route they take the APA will be involved. Supervisor Simmes stated that this would be considered a Type I project by the Town, therefore both the Town and APA would be involved. The APA would consider this a Class A project and they take jurisdiction over it since it is a ski center.

Councilmember Rehm stated that based on the map they will not be able to move the industrial zone. However, they could increase the LC25 zone. This would probably be looked upon favorably from the APA since they like large density development. Councilmember Rehm asked if this type of change would affect anyone else. Rolf Ronning replied no.

Rolf Ronning stated that he was concerned with enlarging the zone and not receiving approval for the project. He stated that he does not want to lose the option for residences if the plan should be rejected. He stated that he has mortgagees that would like to get paid and he doesn't think that they would allow him to lose the potential lots that he has on a gamble. Counsel Muller replied that there are uncertainties, but it is not a gamble. He stated that he could properly present this project through the process and potentially be handed a no, but it is an organized presentation and not a gamble. He stated that he feels that Mr. Ronning could provide enough information in the presentation to justify the idea. Rolf Ronning asked if it would be proper to request the zoning change with the option to have it revert back if the project should not gain approval. Counsel stated that it would not be proper. Zoning districts and uses are based upon logic and not conditions. He stated that they would have to decide which way to go and not look back.

Councilman Saris stated that this feels rather natural for a PUD because it is for this type of project specifically. Rolf Ronning stated that he was concerned with going this route because it would involve a lot of money to produce a project that would involve engineering for the Town and the APA. Counsel Muller stated that by going this route it would avoid the first stage of asking the APA for a zoning change. The PUD is already built into the existing zoning and would not require any special requests. Councilman

Saris stated that if the PUD request does not gain approval then he would be left with what exists now. Counsel Muller stated that this would fall under joint review from the Town and the APA. Rolf Ronning stated that he would need a complete application. He stated that he has had some preliminary discussion with an engineer who has indicated that this project would cost approximately \$200,000 in planning alone. He stated that he does not have that kind of money to put towards a project this large on his own. However, if the Town finds this a viable idea he has investors to back him.

Rolf Ronning asked if it would be possible to look at allowing a ski area in a RR10 zone. This would allow him to receive conceptual approval from the PB and the APA which would provide the investors comfort in moving forward. Counsel Muller agreed that this could be an option. He stated that the district uses for the RR10 could be supplemented with a special use and it would probably be worded as in the LC25 zone. This would fall under Type I Site Plan Review. Rolf Ronning stated that this option is the most workable for him and this is how he wishes to proceed.

Councilmember Rehm asked how many other areas in the Town are considered RR10 zoning because she is not sure that she is comfortable in allowing ski areas in all RR10 zones in Town. Councilman Saris stated that it would be nice to have a ski resort in Town. It would be a larger enterprise that would blend well with residential areas. Typically houses near ski areas are worth more. It does not seem to have any detriment to the community that it is in or the zone that it finds itself next to. Councilman Saris stated that overall this would be something that they would be willing to consider bringing to Bolton. He stated that with 100 acres they are not putting an awful lot of peril of putting an allowable use with a Type I or Type II Site Plan Review in an RR10 zone when really a small ski area requires at least 100 acres. He stated that they are not going to see ski areas popping up all over because they have 10 acres to put it on. Rolf Ronning stated that most other areas wouldn't have the slope or water source either. Councilman Saris agreed. Rolf Ronning suggested that they could also add to the language that ski areas would only be allowed in the RR10 zone outside of the Lake George Basin, which would narrow it down further.

Councilmember Rehm stated that Pam Kenyon provided an APA map which shows that this is 8.5 acre zoning. She stated that according to the APA ski areas are allowed in this zone. She stated that this is a big advantage having that be an allowed use in their zone. However she is not sure of the route that they should take. She does not feel that the APA would like expanding the uses in other zones. Rolf Ronning stated that if he requests to expand the zone and loses the residential lots he could potentially get sued by his mortgagees. He stated that the quickest and best route for him would be to ask for a zoning change that would allow ski areas to be allowed in the RR10 zone outside the Lake George Basin. Counsel Muller stated that they could go this route but it would need to be shared with the APA in its raw form. He stated that structurally this is a language change and not a district change. He stated that they would parallel the language with LC25 zone so that they would be seamless and would also need to look at the new zoning ordinance to make sure that it is compatible. With regard to the new zoning, Councilman Saris stated that there was no discussion of adding the allowable use of ski areas to this zone, but they did discuss some other ideas for this area per Mr. Ronning's previous idea of a camp and the new ordinance would allow for that without changing anything. He stated that given the area surrounding it, the close proximity to the highway and the activities proposed, the Zoning Revisions Committee felt that it was an appropriate area for those types of activities.

Councilman MacEwan stated that he feels that this would be an asset to the community especially in the winter. It is positioned in a great location and could provide many opportunities to the community for recreation and employment. Councilman Saris stated that he knows someone that owns a ski area in the Catskills and he makes as much money there in the summer with mountain biking as he does in the winter. Rolf Ronning stated that David Johnson has indicated that he would be interested in using the area in the summer for additional activities.

Supervisor Simmes provided a map indicating the other RR10 areas. Councilmember Rehm stated that the map indicates that the remaining areas for RR10 zones are in that area of Town and the rest of RR10 is along Wall Street, Dickinson Hill Road, none of which are near the lake. She stated that she would like to ask Pam Kenyon to provide a list of all of the RR10 parcels with the acreages so that they can be better prepared for the APA. Counsel Muller suggested that they could also avoid having any issues by setting a minimum lot size for ski areas in this zone.

There was further discussion and the TB decided that they would like to see some language which would allow ski areas to be in RR10 outside of the LG basin with a minimum lot size of 100 acres. Rolf Ronning stated that he is not sure that he has 100 acres in this lot. Councilman MacEwan asked what acreage he would be looking for. Rolf Ronning stated that he was not sure at this time.

Councilman Saris asked if this would require a resolution at this time. Counsel Muller stated yes the resolution would give him some direction to develop some conceptual language for the RR10 zone for TB review. He stated that if the TB agreed with the change it would then need to go to a public hearing before moving any further.

RESOLUTION # 278

Councilman Saris moved, seconded by Councilmember Rehm to authorize Counsel Muller to produce some language to make ski areas an allowable use in the RR10 zone with the parameters of a minimal lot size. All in Favor. Motion Carried.

CORRESPONDENCE:

Time Warner possible changes

APA reversed decision determination for the Clarke property

APA review of variance referrals

OLD BUSINESS:

Contract between the Town, RPI and Vanwart and Baer for sewer service

Counsel stated that he provided a rough draft of the contract to the Town for their review. He stated that he has also spoken to the RPI attorney as well. Supervisor Simmes stated that the Town email was not working properly and she was not able to obtain a copy of the draft.

Free training opportunities for Planning & Zoning Board members through the NY Planning Federation.

Counsel Muller stated that Walt Lender sent him the proposal and he faxed it to the Town. Supervisor Simmes stated that she was not able to get the fax either. She stated that they had no email or fax capability today.

Councilmember Rehm stated that she would still like to see a list of the current members and their training to date. Supervisor Simmes stated that it was discussed at the last meeting and Pam Kenyon did read the minutes but she did not physically tell her.

NEW BUSINESS:

Request for Penny Cleavland to carry over 8.25 hours to 2010. This is due to the tax bills coming in so late.

RESOLUTION # 279

Councilmember Rehm moved, seconded by Councilman Maranville to approve Penny Cleavland's request to carry over 8.25 hours to 2010. All in Favor. Motion Carried.

Up Yonda inter-municipal agreement between the Town of Bolton and Warren County to provide funding to Up Yonda.

Counsel Muller stated that he has reviewed it and if the Town is agreeable to it they should approve it.

RESOLUTION # 280

Councilman Saris moved, seconded by Councilman Maranville to approve the inter-municipal agreement between the Town of Bolton and Warren County to provide funding to Up Yonda Farm and authorize the Supervisor to sign same. All in Favor. Motion Carried.

Discussion concerning using Coyne Textiles or a clothing allowance for all Town Departments

Supervisor Simmes stated that Coyne Textiles is very expensive and asked if they would be interested in allowing for a clothing allowance. She stated that between the sewer and other departments they are spending approximately \$1,300/year for each department. She explained that Penny Cleavland's husband worked for the County and her son works for the Town of Lake George who both provide for clothing allowances. She stated that Lake George provides a \$300 clothing allowance, a voucher for shoes once a year for \$125 and they get gloves. The County gives their employees 5 T-shirts a year, 2 sweatshirts, a voucher for shoes for \$125, and a jacket and gloves as needed.

Councilman MacEwan stated that he would be concerned that with a clothing allowance they may not look uniform. Councilman Saris stated that the advantage to having a laundry service is that the uniforms are laundered and if they are damaged they automatically get replaced. He stated that it is not just a benefit to the employee but also to the Town because they will always look sharp. Councilman MacEwan stated that they could look into other options for their clothing/laundry services in the area. Supervisor Simmes asked if Councilman MacEwan to provide some names. Councilman Saris stated that this really should be looked at because there are other programs out there to fit their needs. Councilman MacEwan agreed. He stated that in looking at the invoices they seem to be getting charged over and over for a few items that he would think would be covered in one shot. After further discussion it was decided that they would continue to go with a uniform company rather than a clothing allowance but would look into alternative companies.

Contract for the Conservation Park.

RESOLUTION # 281

Councilman Saris moved, seconded by Councilmember Rehm to authorize Supervisor Simmes to sign the contract for the Conservation Project. Councilman Maranville opposed. All others in Favor. Motion Carried.

Set date for ground breaking for Conservation Park project

Supervisor Simmes stated that the ground breaking for the Conservation Park will be December 30th at 10am. She requested for some of the Town Board members to attend.

The Bolton Health Center Advisory Committee met. Concerns were discussed regarding the closure of the Health Center during certain times when no doctor or Physician's Assistant is present.

Set the January regular meeting and organizational meeting for January 5th starting at 7:00pm.

RESOLUTION # 282

Councilman Maranville moved, seconded by Councilmember Rehm to set the January Organizational and Regular meeting for January 5, 2010 at 7:00pm. All in Favor. Motion Carried.

Adoption of the employees handbook

Supervisor Simmes stated that since they did not have fax or email today she was not able to provide these changes for adoption.

Resolution to authorize a Statutory Installment bond in the amount of \$56,843.65 beginning on January 7th at 3.25% for 3years for a 2009 Case Backhoe

RESOLUTION # 283

Councilman MacEwan moved, seconded by Councilman Saris to authorize a statutory installment bond in the amount of \$56,843.65 beginning on January 7, 2010 at 3.25% for 3 years for a 2009 Case Backhoe. Councilmember Rehm opposed. All others in Favor. Motion Carried.

Stants Combustion Association Inc. burner repair and wiring at highway garage estimate approximately another \$2,000.

Supervisor Simmes stated that they have had a lot of issues at the Highway garage. She stated that last January they had a company called P & M go in and they spent over \$5,000 for repair and maintenance. Then a few months later they spent another \$1,400 with them. Then in September they came back and did another service for another \$2,800 and there are still problems up there. They had Jack Hall go up there and his bill is \$5,000 for all of the work that he did and they are still not done. She stated that they need to have Stants Combustion Association, Inc. in Latham to provide the work to the burner and wiring.

Supervisor Simmes stated that they are also having issues with the Town Hall heating system. She stated that they have 2 new boilers in the building and they are having the same problems as before. Ron Conover stated that he spoke to Jack Hall about the problem and suggests that they get the engineer back in here. Supervisor Simmes stated that at one time Jack Hall suggested adding an additional piece of equipment to the system that was supposed to help tremendously. However at the time it cost \$8,800. She stated that currently without this additional piece they cannot manually override the system to call for more heat. Ron Conover explained that what is going through the heat exchange is no more than 70 degree water, which is the problem. He stated that with this being a public building and doors opening on cold days the system cannot keep up.

Councilman Saris stated that they hired an engineer to assess the heating in this building and to make a recommendation of what needed to be done to make it right. They based their decision on who to hire based on what they recommended. He agrees that they should go back to the engineer at this point especially if they need additional equipment for it to function properly. Councilmember Rehm agreed that the engineer should be brought in at this point. Supervisor Simmes stated that she would contact the engineer to discuss the problem.

APA 2nd incomplete application for the Finkle Brook project.

Closing early on New Year's Eve.

Supervisor Simmes stated that some of the offices would like to close a little earlier on New Year's Eve day to use their vacation or personal time.

Transfer Station-Brush Fees

Councilmember Rehm asked if they have come up with any fees for the brush collection beginning January 1st. Councilman MacEwan stated that he had not had the opportunity to do that but could provide something at the next meeting.

After the Fact Application fees

Councilmember Rehm stated that since the TB now has the ability to set these fees she would like to address the after the fact applications. She stated that Councilman Saris has come up with a recommendation. Councilman Saris stated that currently they charge \$150 for those who choose the streamlined path by avoiding the Town zoning. These individuals typically do not need any variances or SPR(site plan review) but do not get a building permit or certificate of compliance until after the fact. He stated that they would like to set a fee for those that do not fit into this category. Some individuals fit into another level of non-compliance when they needed a variance. He feels that this is a much higher level of non-compliance and suggests that they should be charged \$500/each. Councilman Saris stated that currently they do not have anything in place that would deter someone from building something first and then get the building permit second. At times these individuals end up getting more in the end which is not fair to the honest applicant or the ZBA or PB.

Supervisor Simmes stated that she would be concerned that this may be a rather broad brush to apply to all after the fact applications. She stated that recently Mitzi Nittmann went out to measure a house under construction and found one corner that was slightly above the maximum height allowed. She asked if this person would be fined the \$500. Councilman Saris stated that an application for an after the fact variance would be \$500. If someone were to feel that this is unfair and should not apply to them, they can come before the TB and ask for relief from that. He stated that he is hoping to provide some sort of deterrence. Counsel stated that if they choose to go this route, the application should state the fee involved as well as the information about the opportunity to appeal it.

Councilmember Rehm asked what happens if the applicant pays the fee and then gets denied. She asked if the ZBA would require them to take it down. Counsel stated that the ZBA does have the authority to tell the applicant to take it down. Councilman Saris stated that all the \$500 will do is to get them to the next step which is the variance request.

Ron Conover stated that he would like to see how it all fits from the \$150 fee to the \$500 fee. Counsel stated that the \$150 application fee would apply to those individuals that do not need anything other than a building permit and certificate of compliance. Even though the applicant was devious in nature, they have chosen not to waste the time of the TB and the ZA makes the administrative decision.

Councilman Saris stated that they want applicants to make the Zoning Office their first stop. He stated that the \$500 fee would be given to those individuals who need a variance, whether it was devious or not. He stated that these after the fact applications put the ZBA in a compromising condition because they are supposed to grant variances as minimums.

With regard to drafting some language, Counsel Muller asked if the \$500 would be the general fee for any after the fact application needing further ZBA or PB review or would they charge \$500 for each item needed, because they occasionally will run into someone who not only needed a variance but also SPR. Councilman Saris stated that it could be an option. Counsel stated that \$500 sends a message and it is in balance with that person who is applying because if they were to take this to court they would be paying a tremendous amount of money just to get it to court. Councilman Saris stated that he feels that \$500 should just be a flat fee. Counsel stated that he would just need to have a fee that they agree upon and the rest will fall into place with form and procedure.

Ron Conover stated that he would be willing to look into this further. He is particularly interested in wanting to know what distinguishes each. Councilmember Rehm stated that she feels that this will be easier to set up and worry about distinguishing the differences later. Councilman Saris stated that if they set it up this way, they will find that only the non-devious individuals coming to the TB requesting for relief.

Councilman Saris stated that his hope is that if they get this information out there that they would never have to collect any of these fees. Supervisor Simmes suggested adding this to the website as an alert and not just in the zoning ordinance. Councilmember Rehm agreed. Counsel Muller stated that he would start working on some language for an upcoming meeting.

Northwest Bay Partners termination of water service

Supervisor Simmes stated that they have sent a letter of termination of service to Northwest Bay Partners. Turning this water off could create a problem because there is only one line to feed all of the homes in there. She stated that she does not know how to resolve this issue. Counsel Muller stated that they need to inform the other users that their water service is in jeopardy of being terminated as well.

Councilman Saris stated that he does not feel that these individuals are going to get Mr. O'Brien to do anything. Counsel Muller agreed but stated that these individuals need to be aware that this is happening and that if they want to have service they will need to have new lines installed and that cost will be assessed back to them. Supervisor Simmes stated that they are not sure where the sewer line is in relation to the water line and they are nervous to do any digging, so more than likely they would need to hire a private company.

Ron Conover asked if there was legislation that they would follow. Counsel replied yes there are certain aspects of Town Law that they would follow. Councilman Saris stated that their obligation is to bring the water to the edge of the right-of-way. Councilmember Rehm stated that collectively the homeowners are responsible from there. Ron Conover stated that they would be initiating an association type remedy which would follow legislation that would say that they could not have that type of leak in the system and would provide for remedies. Ron Conover stated that the only solution in this instance seems to be to do the work for the homeowners and assess it back on them individually. He feels that getting them to work it out on their own probably would not work in this instance. He does not suggest that they have their crew do this work but rather hire a private company to do the work due to the digging concerns. Supervisor Simmes stated that the property owners could also hire their own company to do the work. Counsel Muller replied that would be the most ideal situation.

Counsel Muller stated that he would send notification to all the homeowners.

Letter to John Hernick, Land Surveyor re: Thunderbird Motel

Counsel Muller stated that he sent a letter to him because he is in the Office of General Services. Mr. Hernick has replied that they do administrative hearings. However, if this dock has existed before 1992 they do not want to become involved. He has also indicated that since the Town has claimed ownership of Lower Brereton Road by use and not by actual title, they will not get involved because the adjacent land owners could own to the middle of Lower Brereton Road and the Town only has the right of passage over it. Counsel Muller stated that he has provided this information to Bob Sinnott who has indicated that the small dock has been replaced since 1992 and that all of the deeds back to 1880 do not include any rights to Lower Brereton Road. Bob Sinnott indicated that if the Mr. Hernick's position is correct and the Town does not have ownership interest because it might be subordinate to a real owner, he knows the real owner. The real owners are those who never gave up their rights to what forms the basis of Lower Brereton. Counsel Muller stated that they are still gathering more facts and he will report back when he has more information.

Letter from the NYS Comptroller's Office

Supervisor Simmes stated that they received a letter on December 21st regarding some retirement reporting discrepancies. They are requiring verification that a standard workday has been established for all positions, specifically, Park Attendants, Camp Counselors, Life Guard and Life Guard covered under Town employment. For appointments in terms of office beginning before August 12, 2009, elected and appointed officials who do not keep and submit time sheets of time actually worked must keep a sample 30 day record of activities. Supervisor Simmes stated that she would provide the letter to all Board members.

PAY THE BILLS:

RESOLUTION # 284

Councilman Maranville moved, seconded by Councilman MacEwan to approve payment of the following bills:

General Fund \$59,307.63

Light District 5,949.76

Highway Fund 30,111.20

Sewer Fund 8,517.01

Water Fund 7,217.93

Tourism 2,192.07

Rogers Park Docks 952.50

L.G. Watershed 26,485.41

Rogers Pk. Trust 147.00

All in Favor. Motion Carried.

TRANSFERS:

RESOLUTION # 285

Councilmember Rehm moved, seconded by Councilman Saris to approve the following transfers:

TRANSFERS FOR DECEMBER 29, 2009

FROM TO AMOUNT

General Fund

Assessor, Equip 13552 Assessor 13554 \$100.00

Engineer 14404 Buildings 16204 500.00

Engineer 14404 Central Comm16504 150.00

Dog Control 35104 DogControl 35101 1.00

Animal Cont. 35204 Animal Cont.35201 1.00

Health Center45604 Garage 51324 4,000.00

Engineer 14404 Garage 51324 2,500.00

Recreation 71401 Parks 71101 2,056.00

Recreation 71402 Parks 71104 1,200.00

Recreation 71402 Cons. Park 71504 800.00

Zoning80102 Zoning 80104 1,000.00

Landfill 81604 Landfill 81601 4,100.00

97307 BAN Int BAN Prin 97306 1.00

Water District

83102 Administration 83101 Administration 1,700.00

83102 Administration 90308 Social Security 1,250.00

All in Favor. Motion Carried.

ADJOURN:

RESOLUTION # 286

Councilman Maranville moved, seconded by Councilman Saris to adjourn to Executive Session at 8:21pm with no further business to be conducted. All in Favor. Motion Carried.

Respectfully submitted by: Respectfully submitted by:

Patricia Steele Kristen MacEwan

Town Clerk Recording Secretary