

TOWN OF BOLTON
TOWN BOARD MINUTES
FEBRUARY 3, 2009

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

Meeting Called to order 7:01 p.m.

Pledge: Councilman Maranville

Public Hearings:

· 1st hearing is to discuss Local Law #1 of 2009 Alternate Planning Board Membership to consider an amendment Section 200-5 of the Town of Bolton Zoning Ordinance providing for alternate membership on the Town of Bolton Planning Board.

Supervisor Simmes stated that they have received letters in support of these two Local Laws from the law firm of Miller, Mannix, Schachner & Hafner and from Mr. & Mrs. Oberer, who recently had an application before the Planning Board.

Supervisor Simmes read the following excerpt from the November 2008 TB meeting which started this discussion of alternate membership for the PB and ZBA due to a vacancy on the ZBA:

"John Michaels and David Ray were interviewed for the vacancy on the ZBA with the term to expire 12/31/09. Councilmember Rehm asked Counsel if he was familiar with alternates to the ZBA and if so how do they serve. Counsel replied yes and stated that they serve in the absence either by recusal or by non-attendance of a regular member. He thinks that alternates are wonderful to have so that decisions are made with full boards which prevent even votes or stalemates. Councilmember Rehm asked if Bolton would need to change their zoning ordinance in order to do this. Counsel replied yes. Councilmember Rehm stated that they had 2 really good candidates and it was a very tough decision and this would be a great way to keep the second person involved. Counsel replied that the best way to start the process is to see if it is of interest and to ask the ZBA to initiate and indicate that they would like to have alternates serve with them and then they could start the process to amend the zoning."

Supervisor Simmes stated that as a result of that discussion they came up with these 2 local laws. All ZBA and PB members received a copy of the proposed laws so they could ask questions or provide comments for it and so far she has not heard any response.

Supervisor Simmes opened the hearing for discussion.

Chris Navitsky, Lake George Waterkeeper stated that he feels that this is a great option for the PB and the ZBA. However, he is concerned with existing applications and asked if this law should not apply to existing pending applications. Supervisor Simmes stated that it was her understanding that any alternate must be brought up to speed with all applications before they could be allowed to vote on an application. Counsel stated that originally he was under that impression and he was going to back it up with some research. He stated that he received an email from Sue Wilson, who serves on the PB, who raised the question at a seminar that she attended. The instructor at the seminar indicated that the Town Law section specifically provided that additional membership that would supplement a ZBA or PB (expanding the Board from 5 to 7 members), those appointments cannot sit as a voting participant where the application has already been on file with the Board. Counsel stated that is an interesting point because looking at the statute Section 267 in Town Law it does state specifically that an additional member shall

not vote on an application on file. However, what they are doing here is for alternate members and unfortunately for them the statute is not very well structured or written and so it does not simply provide that the alternate member may not sit and vote on an application already on file. He also indicated that there is not a lot of case law on it either. He has shared this disparity with Mike Hill, who will also speak on this matter as well. Counsel stated that this leaves them open on the issue and it should be discussed as to what Bolton has in mind. He stated that logically the alternates are there to fill in holes and they come under emergency circumstances, they are qualified and appointed and should be allowed to sit in and participate in these situations.

Meredith McComb stated that she was confused by Counsel's explanation because it sounds like the Town Ordinance says that if alternates are appointed they should start the review of projects as they come up and not be brought in on an emergency basis without having heard or been in attendance during the discussion of applications. She stated that she looked at Robert's Rules of Order website and found that it is a frequently asked question with regard to members recusing themselves or being compelled not to vote on a project. She stated that this has been coming up with increasing frequency on these Boards and it seems to her in a way that alleges bias beyond fiduciary involvement with a project or direct personal involvement with a project. She stated that she would like to see this discussed and very clearly given some parameters.

Meredith McComb noted on the Robert's Rule of Order website 10th addition, page 394-1.15-25: "No member can be compelled to refrain from voting simply because it is perceived that he or she may have some 'conflict of interest' with respect to the motion under consideration. If a member has a direct personal or pecuniary (monetary) interest in the motion under consideration, not common to other members, he should not vote on such a motion, but even then he/she cannot be compelled to refrain from voting." Supervisor Simmes stated that she does not believe that anyone has compelled anyone on the PB or ZBA not to vote, they have chosen to do that on their own. Meredith McComb disagreed and stated that it has been raised from the floor in PB situations that a member should recuse themselves. She stated that she has also been told that since she previously cast a vote against a project when she was a PB member that she could not be considered an impartial evaluator of another project on that parcel when it came back around. She stated that there have also been cases on the ZBA that a sitting member can recuse themselves and then present their own project to their own Board. She stated that Herb Koster does not permit this on the PB, but it happens on the ZBA. They have even had a case on the ZBA where a member had rental docks in the same bay as an applicant who was looking for a variance to facilitate a new approach to them because it would make him more money and this was perceived as a good chance to get some specific information from the ZBA member and he voted on the measure and it carried by one vote. She stated that she can see the point in considering this so that applicants can have a full board but they ought to have a board that has heard the entire process and there should not be the perception that someone is being brought in and shopped because they have a different point of view. She stated that she would like the Board to have a coherent sense of what is appropriate and inappropriate and under what circumstances someone will be asked to recuse themselves or if in fact they can't be compelled to recuse themselves.

Michael Hill of Miller, Mannix, Schachner & Hafner, on behalf of Mr. and Mrs. Oberer, stated that he was there to speak in favor of the proposed local law. He feels that it would be beneficial to have alternate members for these Boards not only for his clients' particular application but for any future applications where there may be circumstances where one or more members are absent or have recused themselves.

With regard to the question of whether newly appointed alternate members should be allowed to participate in decision making on pending applications, Michael Hill stated that they have reviewed the law on that issue and feel that the appropriate thing would be to allow those alternate members to participate in pending applications. He stated that there is an important distinction that needs to be made with regard to the portion of NYS Town Law that authorizes PB and membership on PB's. In Section 271 subsection 6, which deals with increasing membership of a PB from 5 to 7 members, the law is absolutely clear, and the legislature provides a very specific provision that says the additional members are not permitted to serve or participate in decision making in pending applications. He feels that this probably was set in place because if the Board was perceived to be leaning in one direction or the other and TB members might believe that it would be useful to have a different outcome or to bolster an anticipated outcome or force an outcome they may increase the Board to have additional members. The legislature could see the potential for abuse and it is likely they included that prohibition for that specific reason.

With respect to alternate members, Mike Hill stated that the PB would be in an entirely different situation. He stated Mr. Oberer's situation would be a perfect situation. Currently the PB has 7 members and 2 members have recused themselves from participating, leaving 5 members. As the last vote stands the PB is essentially deadlocked at a 2-3 vote. Votes of at least 4 members are required in order for the PB to take any action to approve or deny. At this point the PB is dead locked on Mr. Oberer's application and it is in limbo. The alternate members are needed in order that there be any decision at all made with respect to Mr. Oberer's application. They would also urge Counsel to advise that the alternate members be allowed to participate in Mr. Oberer's application and other pending applications after they have had the chance to become fully familiar with the entire record. He stated that they feel confident that whoever the alternates may be will give Mr. Oberer's application a fair shake and an outcome can be achieved. He feels that if the legislature had intended to prohibit newly appointed alternate members from serving and participating on pending applications they could have included language similar to the language included in the provision that bars additional members to the PB from participating in pending applications.

John Gaddy stated that he has recused himself at the request of an applicant from an application several years ago, however that same applicant has had him participate in other applications after that. In hearing these arguments, it seems that all of the Board members on all of the Town Boards seem very serious about their jobs. He does not see that absence really plays that big of a role since most are not absent for a long period of time. With regard to recusal, the question that each Board member needs to ask themselves is can they be impartial. He stated that Sue Wilson and Henry Caldwell recused themselves on the Oberer project and asked if it would be possible for those members, if they can be impartial, to re-instate themselves to listen to this project since they have sat at all of these meetings as opposed to alternate members. Counsel replied that was a hard question to answer. Recusal to some degree is personal and he has never asked any of the members why, he just respects their answer. He stated that he would not want to discourage any members from exercising their rights to recuse themselves from time to time. He stated that they made the decision and it was a good decision and it should lay at rest.

Ron Conover stated that he does not have strong feeling either way about adding alternate members. However, he stated that he did not agree with Michael Hill's statement about the PB being in a deadlock because one or more members recused themselves. He stated that if 5 or 6 members are present and 4

votes are required and the motion fails, then it fails and a conclusion has been reached. Any applicant knows that they need a majority vote of the Board and in certain capital projects many communities need a majority plus 1.

Michael Hill responded that from a legal standpoint a 3-2 vote by a PB does not constitute a legal decision, it constitutes no action. In order for a 7 person Board to make a decision the votes of 4 members are required for approval or denial. A 3-2 vote had no legal significance and does not constitute an action. He stated that he feels that Counsel Muller would be in agreement with him.

Ron Conover stated that he may be correct that the PB failed to approve and he may be correct in a legal sense that the application is still pending, but to suggest that the PB in some way had no action take place is not correct. The PB did vote, however the consequences of that vote can be debated. He asked Michael Hill if the PB should not vote until such a time when they know that they will have 4 votes to approve or disapprove. Michael Hill replied that he is not suggesting that a Board not vote until they will have 4 votes or not, but the natural course or outcome will be that there will be either 4 votes in favor or 4 votes against which would constitute a majority. Therefore Mr. Oberer's application is still pending awaiting votes by alternate members. He stated that he understands what Ron Conover is suggesting but from a legal standpoint alternate members are needed so that a decision can be reached.

Counsel stated that he does not disagree with either Ron Conover or Michael Hill in that their points are well taken. However, from a practical standpoint when you do not receive a yes, it is a no or it can be no action. In the particular case with Mr. Oberer it was considered no action. He stated that they could debate all night the legal effect that it is. It is essentially a denial and when it became apparent that it was, he began a discussion in the open forum with the applicant, applicant's Counsel and PB Chairman Herb Koster and suggested that if it was appropriate the applicant could defer this issue to see the outcome of the possibility of adding alternate members to these Boards. He explained that these local laws were being looked at by the TB and he would do his best to expedite it.

Counsel stated that if these laws are enacted it would be helpful to know how to use them, but he would suggest that it would be appropriate for the Boards using these alternates to determine how it will use it. Looking into the law, he and Mike Hill came up with the interpretation that he does not think is diametrically opposed. There is no specific provision that would prohibit an alternate member from voting on pending applications. These alternates will update themselves with the information and will represent and certify that they have read the whole record and are able to sit in and make a decision. He stated that he will be saying the same thing to the Boards that are intending to use it and will let them use it.

Councilmember Rehm stated that she appreciated Supervisor Simmes reading the November 2008 TB minutes so that the public could be made aware that these proposals did not originate or were prompted by any particular case. It was prompted by the fact that they were interviewing for an open seat on the ZBA and they had good candidates. Afterwards, it occurred to her that out of all of the municipalities she works with, Bolton is one of the few that has not already passed this measure of adding alternate members. In previous years it was often difficult to find good people and she felt that when they had an opportunity to encourage these people to put forth service and get them in line so they know how the process works, it seemed like an advisable step to take. She stated that it is unfortunate that the Oberer case has come up to interfere and taint the proposal slightly.

Councilmember Rehm asked Counsel what the procedure was when an application is before the Board for several months and on occasion a member is absent, are they allowed to come back and continue to vote as they did before the absence? Counsel replied that he has always instructed that any absent member become fully familiar with all of the minutes that were taken and all the submissions handed in before participating again. Councilmember Rehm stated that enacting these laws would be a great opportunity for the community and feels that it is time for Bolton to do so.

Councilman Saris stated that if they do have alternates, they probably will not be called upon very frequently because the Boards have good attendance. However, there are times when they can be really helpful. He stated that he agrees with Ron Conover that 4 people can vote and that is all that you need but although it is legal and binding, it is not necessarily the best they can do for the applicant. The best they can do for the applicant is to give them a full Board and the diversity of what a full Board represents. He stated he has also been on the ZBA when a super-majority was needed and that would be tough to achieve if there are absences or recusals. It seems logical to allow these alternates to vote on pending applications, because otherwise applicants could simply withdraw their current application and refile it and they would be all set anyway. The only real issue is whether or not an alternate can do their due diligence to properly sit in judgment of that application.

Chris Navitsky, Lake George Waterkeeper, asked if this was for both the ZBA and PB and how many alternates each. Counsel replied that both Boards would have the opportunity to have 2 alternates. He stated that when they first approached this idea with the ZBA and PB, the ZBA was not interested but the PB was but only for one. All he offered to the Town is that they should exercise all the options under the law. The PB may only adopt one alternate and the ZBA none, but that would be entirely up to them. Chris Navitsky commented that this may not resolve the stale mate in the Oberer case. Counsel agreed.

Ed Zwick stated that the PB's decision on the Oberer application did send a message to the community and the applicant. He stated that maybe an alternative to the alternate problem would be to have the applicant re-submit, the recused could then reconsider a new application not recuse themselves allowing the original 7 member Board to act on the application. Doing so may also address the concerns of the community that were expressed to applicant because he is sure that Mr. Oberer could modify his application to appease those who were opposed to the application.

Ron Conover stated that he would not want the impression left that the PB did not try to work with the applicant for a better outcome. The PB made every effort in the Oberer application and makes every effort in every application that comes before them. He stated that he has seen many PBs over the years and Bolton has an excellent PB and ZBA.

Supervisor Simmes stated that she is not sure why they are focusing on this one application because these 2 local laws are not being presented because of the Oberer application. These were proposed to solve other problems. Ron Conover stated that he understood that, but only spoke based on what was being presented to the TB by Mike Hill. He stated that he really has no stance on the alternates either way. However, he does feel that it could be a little clumsy at times and may not operate in the way that they think it will.

Supervisor Simmes stated that she agreed with Councilman Saris about giving applicants a full Board to have their applications heard. She stated that she is in favor of these proposals. If they were to adopt it

and find willing candidates to serve the PB and ZBA would determine how they were used. Counsel agreed.

Meredith McComb asked if there were any potential alternates pending. Supervisor Simmes replied no. Meredith McComb asked if they could explain the procedure for seeking alternate members. Supervisor Simmes replied that they will advertise on the website and in the paper and then conduct interviews with all applicants.

Ed Zwick asked Counsel Muller if it would be possible to invalidate the alternate members from participating in any discussion of any existing applications. Counsel replied yes, parameters can be placed on these alternates, but it will be up to the Boards that will be using the alternates to decide what, if any, parameters will be set. Ed Zwick stated that since it is the TB's decision to add alternate members in the first place, they should be the ones deciding what, if any parameters should be set for the alternate members. Counsel replied that if the statute does not put limits or parameters on alternate members then he would not instruct the TB to set parameters either. Ed Zwick stated that he thought that the TB was the legislative body of Bolton. Counsel stated that was true. Ed Zwick stated that if they decide to allow for 2 alternates, why can't they also decide the parameters that will be placed on those alternates? Counsel replied that the Chairman has a great deal of latitude as to how he will proceed in his meeting, and membership of those Boards has a great deal to do with how those meeting shall be conducted. The TB should not limit the jurisdiction that is available to those Boards. Those jurisdictions are properly delegated and substantially delegated by statute and this statute that they are addressing does not limit the alternates. Therefore it should be and more than likely will be discussed at that level.

Councilman MacEwan stated that it was his impression that the ZBA did not want alternates. Supervisor Simmes asked Counsel if they still feel that way after it was explained. Counsel replied that he was not sure but he would recommend to this Board that it is appropriate to enact this in the code and to offer it to the ZBA even if they choose not to use it at this time.

Dennis Murphy stated that the recusals that occur seem to be increasing in frequency as time goes on due to changing times and laws. He stated that he feels the recusals have been done for good measure to protect the Board and Town of Bolton. He feels that adding alternates would be beneficial to the ZBA and PB and all applicants. Applicants need a majority vote and when there are 1-2 people recusing themselves, they start to get into a gray area.

· 2nd PH to discuss Local Law #2 of 2009 Alternate Zoning Board of Appeals Membership to consider an amendment Section 200-4 of the Town of Bolton Zoning Board of Appeals.

The TB accepted all of the comments from the 1st public hearing for this public hearing. There were no further comments from the public in attendance.

· 3rd PH is regarding the renewal of the cable television franchise agreement by and between the Town of Bolton and Time Warner Entertainment-Advance/Newhouse Partnership d/b/a Time Warner Cable.

John Mucha stated that he works for Time Warner in their government relations department. He stated that the current franchise agreement with the Town expired on June 8, 2008. He has been working with

the Supervisor since May 2008. The State Public Service Commission gives municipalities and cable operator's temporary operating authority to continue to negotiate, which means that even though the term expired they can continue to operate under the old agreement until a new agreement is reached. He stated that part of the State process is a public hearing which is what they are doing tonight.

John Mucha stated that the new agreement is quite similar to the last one but with the following changes:

-)1) The proposal is for a 15 year term, the last agreement was for 10 years. He explained that the PSC has updated their rules to allow 15 year terms in New York which the rest of the country typically uses.
-)2) The density figure for expanding cable in the Town has been raised from 15 homes/mile to 20 homes/mile. This is consistent with the rest of their division and all of their new agreements. He noted that the PSC rule for density is 35 homes/mile and Time Warner voluntarily billed down to 20 homes. John Mucha believes that they have built all the areas in Town that are between 15-20 homes/mile over the last 10 years.
-)3) Any other changes are reflected in changes that the PSC has made in their cable rules over the last couple of years.

John Mucha stated that the municipality franchise fee will remain at 3% on their gross revenues which is the same as the last agreement.

Supervisor Simmes read all of the areas that either currently do not have cable or have partial cable. She stated that there has been some discussion on providing cable on Federal Hill Road but some of it will be underground. John Mucha stated that Wrights Farm subdivision has cable underground but it is not activated. He stated that it will lower the price because the cable is already there. Supervisor Simmes stated that the proposal is for the following:

-)1) Federal Hill Road at a total cost of \$51,707.00, with a minimum Town contribution of \$13,020.00 based on all homes becoming subscribers.
-)2) Wall Street, 9 homes, at a cost of \$21,741.00, with a Town contribution of \$5,160.00.
-)3) Pine Tree Lane, off of Coolidge Hill Road, would have 9 homes, 5/10th of a mile of underground, 7/10th of a mile aerial with a cost of \$40,962.00 with a Town contribution of \$18,358.00.

The entire cost for the 39 homes is \$114,410.00 with a minimum Town contribution of \$36,538.00. However, final cost will be based on actual construction costs and they believe that a more realistic number would be \$45,000.00.

Supervisor Simmes stated that last year they put aside \$31,307.13, which was the 3% franchise fee that they collected from cable and they also have interest of \$1,200.00. She stated that if they used the UDAG interest from the last 3 months they would have \$56,352.00 to put towards cable. Supervisor Simmes asked that if the TB were to approve this proposal how long would the process take until it was completed. John Mucha replied he could not tell her that tonight. He stated that what they need tonight is to have a formal notice that the Town is going to go ahead with this, and then he would take this to the construction department and get back to her with some information.

Supervisor Simmes opened the discussion to the public.

Doug Houghton, 592 Federal Hill Road, asked what designates a mile for Time Warner. John Mucha replied that it would be the path the cable would take to pass the road. Doug Houghton stated that he is building a new house on Federal Hill and he has cable running underground from a telephone pole on

Federal Hill to his house and asked if they count that in their mile or just to the telephone pole. John Mucha asked what the distance was from his house to the telephone pole. Doug Houghton replied 200 ft. John Mucha stated that generally 300 ft. or less is not included in the mile and would be considered standard installation. He stated that with Wrights Farm all they have to do is hook up to one book and all 10 homes in that subdivision could have cable. John Mucha responded that was not true because it would take construction to get to that development. Doug Houghton stated that from County Route 11 to his driveway is 1 mile and there are 25 houses within that mile that could have cable. John Mucha replied that is not adjacent to their plant and the agreement states that these homes need to be adjacent to existing plants. Doug Houghton stated that Walter Rehm has cable and he is almost at the corner of Federal Hill and Church Hill Road and then go a little further and you are at County Route 11. John Mucha stated that they have surveyed all of these areas and the Supervisor has those surveys with the results. He stated that if they have made an error someone needs to point that out and they will fix it. Doug Houghton stated that they got a letter from Time Warner which indicated that they did a 5 mile survey and counted all of the houses and then divided it by 5 and came up with only 10 houses/mile which is not fair. John Mucha stated that if it was 15 homes/mile or less from their termination of their plant to his home they would build it, but his guess is it is not because they would have built it. Doug Houghton stated that Alderbrook Road has cable and they do not have 15 houses up there. John M. stated that historically things have happened, but the standard is what is in the agreement. Doug Houghton stated that he would like Time Warner to look at Federal Hill one more time. John Mucha stated that he would be happy to do that and asked for Mr. Houghton to provide him with the necessary details after the meeting. Doug Houghton stated that he would be happy to show him some day. John Mucha stated that he was part of the survey of Federal Hill Road and they tried to make it work to meet the 15 home threshold.

Jeff Tennent, North Bolton Road resident, stated that his power comes from Federal Hill Road by Wrights Farm. He stated that National Grids' poles run lines over the mountain approximately 1,500ft. He stated that he has 4 homes that would use cable and asked how that would figure into their calculations. John Mucha asked if his property has ever been surveyed. Jeff Tennent replied no and he has had no notice of this even taking place. He stated that his lines run off of Federal Hill Road and they would have seen the power lines when they performed their survey. He asked how this would effect their density calculation. John Mucha replied that he did not know and stated that it would be best to request a survey of his property. He stated that if they have made any errors they certainly want to correct them.

Zandy Gabriels asked if the agreement changed the formula for reimbursement for those who do not have cable. John Mucha replied that it would change based on the homes/mile which follows the State formula. Zandy Gabriels stated that PSC has allowed the Town and Time Warner to exist under a temporary franchise agreement. He doesn't see how the Town gains anymore on the new agreement and feels they should continue to operate under the temporary agreement. He stated that they have the money to finance the proposed projects. He stated that he feels that the agreement that Time Warner has proposed is not a good deal and feels that they should negotiate harder. He asked if they can run under a temporary franchise agreement for 10 years or until the PSC comes and sits down with them. Counsel replied that 10 years would be wishful thinking. Zandy Gabriels stated that they should get PSC up here because they were willing to meet with all parties to help negotiate a better contract. Supervisor Simmes stated that she has spoken with the PSC on numerous occasions. Zandy Gabriels stated that he wouldn't sign a new agreement for 15 years because there is too much change coming in the industry. He stated that he remembers sitting down with the Chairman of the PSC when he made the decision to

go to 20 homes/mile. He stated that there are certainly not that many towns in the State of New York that would have less than 20 homes/mile. This Chairman was from NYC and was certainly not representing the North County where the APA rules and regulations absolutely preclude cable plant development as the State defined density. He stated that it is almost impossible under the current Zoning Code to get the plant done by the franchise agreement. He stated that Bolton will have to dip into its own pocket, privately or by TB to bring Bolton up to speed fully. He thinks that they should continue to operate under the temporary agreement to let Time Warner go back and negotiate further.

Zandy Gabriels stated that he was present when Mr. St. John surveyed the properties on Federal Hill Road. He stated that if poles went up off of a road to service elsewhere they did not go to find out where those poles went to. He stated that he let Mr. St. John know that there were 4 houses back where Jeff Tennent lives and Mr. St. John replied that he didn't know how to get there. He stated that he knows he made the count but he didn't do anything with the odometer reading back there. He stated that it was a windshield survey and the math didn't work. He stated that Time Warner is a large corporation and the Town needs to get more out of them for the Town citizens.

With regard to the odometer situation, John Mucha stated that Eugene St. John strictly designs cable plants and he wants to build cable plants. Mr. St. John goes out of his way to qualify areas to meet the density and feels that it is wrong that it was stated that he did something hidden or obscured things. Zandy Gabriels agreed and stated that Mr. St. John did make a mistake in favor of the Town of Bolton a few years ago when they did New Vermont Road. He is a very honest man and did go out of his way in that project. John Mucha stated that was not what he had just said.

Supervisor Simmes stated that East Schroon River Road has a strange configuration with their power poles and asked if that is how they calculate their distance. John Mucha replied that they have 2 alternatives when building a cable plant; 1) follow the pole line and make it aerial or 2) bury the cable; however it is much more expensive. He stated that they use National Grid maps to be as precise as they can. He also noted that when they use poles, they are tenants to whoever is servicing the poles.

Jeff Tennent stated that Time Warner has the capability of lowering the density if they wanted to. John Mucha replied that they always reserve the right to do less. Jeff Tennent stated that they could negotiate for something lower that would be more in tune with Bolton. John M. stated that the terms of the agreement state 20 homes/mile but Time Warner reserves the right to build cable in areas with less than 20 homes/mile.

Councilman MacEwan asked if there was a deadline to make a decision. Supervisor Simmes replied that they have been granted an extension through the PSC. John Mucha stated that the PSC have municipal consultants who offer a free service to come and work with the TB on this agreement. In terms of the temporary operating authority, he stated that it is granted in 6 month increments as long as there are ongoing negotiations. Councilman Maranville stated that it seems that they will be negotiating this further.

Councilmember Rehm stated that she appreciates Time Warner and feels that her dispute is more with the State of New York and the PSC. She stated that they are in a technology age and the Town of Bolton is being discriminated against. Upstate New York is at a distinct disadvantage because the PSC sets the standard at 35 homes/mile. Outside of Queensbury all the way to Plattsburgh there is no community that

has 35 homes/mile. She stated that the children need to have technology in their homes and businesses need the technology to operate. She stated that she is not in favor of this contract especially not for 15 years. She stated that they have addressed the areas in Town that have more homes/mile and now all that is left are the truly rural areas and the threshold is being raised. An interesting point of the contract states, that should they have 15 homes/mile they are required to bring service to that mile. However, if there were 14 homes, they would count the number of customers and not the number of homes. Meaning that if there were only 5 customers in the mile, the Town would pay the difference between the 5 and the 14 to service that mile. She feels that the cards are stacked against the Town in the entire contract and does not feel that the PSC will even care, but at least they can make a statement publicly of this discrimination of rural America.

With regard to the formula used in areas below the density, John Mucha stated are based on the State PSC formula. He stated that it is not something that Time Warner invented to penalize the Town, it is the formula in the State PSC rules. Councilman Maranville asked if Time Warner works with any Towns that are less than the 20 homes/mile threshold. John Mucha replied that they have a handful of agreements like the Town of Bolton's that go back 10 or more years that have less than 20 homes. However, every Town that has renewed contracts within the last 5 years has been at 20 homes.

Meredith McComb asked if there is anything the Town can do with respect to the new code, with a new kind of housing called an accessory dwelling unit. She stated that perhaps Time Warner's definition of a home could include that so that they could get more homes out of it. John Mucha stated that generally if there are separate utilities on a guest house they would be considered a second home.

Jeff Tennent asked if there is any reimbursement to the Town for homes that decide to hook up to the plant after the construction has already taken place. John Mucha replied that there is a provision in the State rules that if customers pay the construction formula and some residents do not take the service, but later decide after that new area is established to take the service they would have to pay their share of the construction costs and there would be a rebate to the original customers who did pay, which in this case would be the Town.

Supervisor Simmes asked Doug Houghton if he is saying that there are 21 passings from Bixby Farm to Sawmill Road. Doug Houghton replied yes and adding Jeff Tennent would bring that to 25. He stated that the Sagamore also wanted cable at their recycling center for their office. Supervisor Simmes suggested that Time Warner do another survey. John Mucha agreed and stated that he would invite all interested parties to participate.

RESOLUTION #38

Motion by Councilman Saris, seconded by Councilman Maranville to keep the public hearing open regarding the renewal of the cable television franchise agreement by and between the Town of Bolton and Time Warner Entertainment-Advance/Newhouse Partnership d/b/a Time Warner Cable. All in Favor. Motion Carried.

Public in Attendance

· Walt Lender and Buck Bryan are here to address the Board concerning the LGA's Floating Classroom & Boat Safety Educational Program.

Walt Lender, Executive Director of the Lake George Association, thanked the TB for the opportunity to speak about the LGA's Floating Classroom & Boat Safety Educational Program. He stated that LGA Board member Bruce Ashby who is a resident of Bolton Landing has taken up the charge on the project. Their hope is to bring the LGA back out on the lake with the floating classroom. The LGA has been around since 1885 and has taken a leadership role in conservation issues around Lake George since then. In the early 1990's the LGA conceived an exciting program to educate the generation of stewards of Lake George by bringing middle school students out on the lake with an exciting educational program, which is described in the plan that he has provided to the TB members. However, over the last few years they have been running the program as a land based program only and there has been an outcry to bring this program back out onto the lake.

Walt Lender stated that Bruce Ashby has taken the personal responsibility to find them a boat. So for the last 3 years he has been searching for charter boats or carriers both on and off of Lake George. However, in the end the LGA came to the conclusion that they will purchase a boat to provide the floating classroom. He stated that the class teaches the children about the formation of the watershed, the geography of the lake and they do water sampling and testing. They will also have a land based component to the program that will be done at Up Yonda Farms.

Walt Lender explained the funding restraints that the LGA has been under and stated that they will be searching far and wide to raise the additional funds necessary to complete the purchase of this boat. He stated that they already have quite a bit of the money necessary through donations, including a personal contribution from Bruce Ashby. They will be going through with the purchase of the boat and hope to have it on the lake by the spring.

Walt Lender stated that he has provided a proposal to Supervisor Simmes for the potential of some funding from the Town of Bolton. Buck Bryan stated that the total cost of the boat will be \$235,000 all of which will be paid in cash. He stated that Bruce Ashby donated a little over \$100,000 in the month of December and then they pulled the rest of the money together and reached \$225,000, they were about \$50,000 short. At that time the LGA Board of Directors voted to pull \$25,000 out the second century reserve which is their endowment policy and Bruce Ashby stepped up again and offered a \$25,000 no interest loan which brought them up to \$225,000. He stated that the LGA would like to raise \$50,000 to pay back the second century reserve and also pay back Bruce Ashby.

Supervisor Simmes stated that the LGA uses Rogers Park a lot and asked if the Bolton students participate in the floating classroom. Walt Lender replied that they have participated in the past but Bolton students primarily work through a program with the Darrin Fresh Water Institute which is funded through the Fund for Lake George. However, that does not preclude them from participating in this program as well.

Supervisor Simmes asked if they have presented this to other Towns. Walt Lender replied that they have with the Village of Lake George who has offered to provide dock space. He stated that they have also approached Norowal Marina, who has agreed to provide winter storage for the boat. Walt Lender stated that they will also be approaching the Lake George Watershed Conference as well as other foundations and municipalities.

Councilmember Rehm stated that she has participated in the floating classroom before and it is a great

experience. She stated that she appreciated the financial break down and since they are paying cash the need for funding is more immediate. Walt Lender stated that it is a combination of cash and self-financing and they intend to pay back the sources of funds that they have taken advantage of in order to make the purchase. He stated that if they want the boat ready for the spring they need to order the boat now so that it can be built to their specifications over the winter.

Supervisor Simmes stated that she has a lot of respect for the LGA because they do great work, they provide their own funding and they create projects on the lake that help the environment. She stated that once the TB has had the opportunity to review the proposal they will let them know.

· Meredith McComb addressing the manner in which her 10 years of service on the PB and ZBA was summarily terminated last month.

Meredith McComb provided an authorization sheet that all applicants fill out before their variance can be presented to the Board. She stated that her husband is a third generation property owner in Bolton and they became full time residents in 1992 because of the world class beauty and tranquility of Lake George. She stated that she does not have the intention or the means to hire a lawyer to pursue retaining this \$50/month job or to inflict a cost of defending a lawsuit or of any settlement on her fellow townspeople, nor does she want anymore threatening phone calls. She is about to become a very quiet citizen, but she feels that there has to be a record of what has happened here.

Meredith McComb stated that on January 6, 2009 before a packed public meeting she was re-appointed to a 3rd term on the ZBA without discussion or dissent. Some may question propriety of printing up the results in an organizational meeting prior to the vote being actually taken but there were no variations from the pre-printed record as the resolutions were read and voted on. Then the public left the meeting and she was kicked off the ZBA. She stated that she was glad to be re-appointed and felt that she did a good job and she received a lot of positive feedback from members of the community.

Meredith McComb stated that she was raised to believe in community service and it is too much fun to be called service to fill in when they need a sub for bridge at the senior center or to play Louise Homer at a Historical Society Fundraiser or to do a solo recital to the benefit of the Marcella Sembrich Opera Museum or to sing the Star Spangled Banner for the dedication of the Veterans Memorial. However, being on the ZBA is not too much fun, but it is needed. Getting re-appointed to the ZBA made her feel that she lives in a Town where the full spectrum of opinion continues to be valued and where reasoned dissent is a welcome component of public discourse. She asked what kind of bias has she shown by her voting record. In the last 3 years she has voted to approve more than 90% of applications, 206 applications total, 188 votes yes and 18 votes no.

Meredith McComb stated that when she was first appointed she remembers Councilman Saris telling her that all points of view deserve to be heard on the ZBA and that her point of view was being balanced by appointing Tony DePace at the same time. She stated that she was not surprised that the TB kept with past practice and appointed her without discussion or dissent, but then the next morning she received a call from Supervisor Simmes who informed her that her re-appointment had been rescinded. She replied that the public meeting had ended but Supervisor Simmes told her that technically the public meeting was still open and they declared themselves back in open session before they took the vote. Meredith McComb stated that she saw the recording secretary leave and Supervisor Simmes indicated that she

took the notes herself. She stated that Supervisor Simmes also informed her that her vacant seat had already been filled, which left no public notice of the vacancy and no opportunity for others to apply. Meredith McComb stated that they chose a previously interviewed candidate whose experience comes from representing developers before ZBA and PB, which is not quite in the same place on the spectrum in community opinion as her. According to Town Counsel this was perfectly legal. Meredith McComb stated that she asked why she had been let go and Supervisor Simmes checked her notes and reported bias, which slowly morphed into advocacy. She asked if this was a summary secret judgment followed by an unrecorded public vote taken before an empty chamber and she was told no. Meredith McComb warned Bolton that just because the room is cleared and the recording secretary leaves doesn't mean that the public meeting was over.

Meredith McComb stated that she asked what the grounds were to re-open the issue. Supervisor Simmes indicated that Councilman Maranville claimed he had not read Resolution #14 before he voted on it and wanted to change his mind. She stated that there is no evidence that there was an illegal quorum reached before the meeting and then concealed from the public in attendance except, absent some advance agreement on this scheme, one must accept at face value the incredible story that her re-appointment was only re-opened because Councilman Maranville had not read the resolution in advance and didn't know what he was voted on. She stated that both Councilmen Saris and MacEwan who first voted yes on her re-appointment independently also became adamant that she must be removed. She stated that she was assured that no new documents were introduced and no testimony taken from other witnesses and they didn't take advantage of her presence for 4 hours or her living 2 minutes away to ask her any questions, they just changed their minds.

Meredith McComb stated that she seems to have been dismissed based on undocumented hearsay, rumors and complaints from those with good reason to fear close scrutiny of their applications. One applicant moved into Town around the same time she did and asked for her support on an application and ended his request with a threat "we'll see who is willing to stand up for a son of Bolton and if they will be willing to take the consequences if they don't." She stated that she stuck with her previous position on the matter and a letter appeared at the Town Hall accusing her of harassment. She reported the threat she had received and that this letter was the threat being carried out and the complainer had offered to bring her a beer during this supposed harassment. She was told that was the end of that incident and Supervisor Simmes indicated that this incident had been brought up at the Executive Session. Meredith McComb guesses that once you have a complaint against you in the Town of Bolton than apparently you must be guilty of something and if you are guilty you will be dismissed.

Meredith McComb stated she would consider this as a dismissal since the Organizational Meeting in which she was re-appointed was duly adjourned with the motion to re-appoint her in tact. What happened later was not simply just rescinding the vote, but actually was the removal of a sitting member of the ZBA by simple majority with no disclosure to the accused that there were even charges pending and no right to respond. This would be considered without due process. She asked what effect this will have on the remaining impartial members of the Boards; investigate and you will be silenced. She stated she was told if she wasn't biased she wouldn't look at the facts so closely. She asked how the ZBA members are supposed to examine applications without looking at them carefully.

Meredith McComb stated the most famous complaint lodged against her was that she was seen investigating an applicants' property with a "known environmentalist". She stated that was true but her

defense is that the authorization form that is signed by each applicant gives her the right to do just that. She read Item 3 from the authorization form as follows: "Authorization for site visits. The applicant hereby authorizes members of the ZBA, PB and employees of the Town of Bolton and their agents to enter the subjects properties at reasonable times for the purpose of reviewing the application submitted." This complaint came from a property that has 54 acres of Lake George waterfront that sold in 2006 for only \$80,000. It had been turned down as a building site twice while she was on the PB because of the prevalence of wetlands which also accounts for the sale price. The Zoning Administrator stated that she could not answer her technical questions about the difference between wetlands and flagged wetlands, which seemed key to evaluating the variance requested. So she enlisted a second opinion of a scientist from DFWI and an APA employee that flags wetlands all of which she disclosed. She stated that Counsel Muller reluctantly concluded that she could ask advice but it would be better if she could avoid asking anyone with an affiliation. She wonders who he would suggest that has both expertise and no affiliation. She stated that at a later time, Counsel Muller suggested that because she had voted against applications to build on the site when she was a PB member, that she should recuse herself if it came before the ZBA because the applicant deserves a fair hearing and if she already voted against a project on the site how could she claim to be impartial. She stated that apparently only voting against a project compromises impartiality. She stated that her State mandated training taught her that she may not change her position or answer on a project based on who is doing the asking.

Meredith McComb stated that had she had a conversation with any of the 3 TB members that played out the deception in the remaining minutes of January 6th she might feel differently. She stated that she has never seen the TB liaison to the Zoning Department attend any of the ZBA meetings unless he was not on the agenda asking for a variance, nor did she see the other 2 TB members who voted against her at any meetings to evaluate her performance. She stated that because of the way this was handled and because of her more than 90% approvals for variance requests, she has come to believe that she was dismissed in retaliation for blowing the whistle on substantial changes embedded in the new proposed new zoning code. She stated that was what originally characterized as re-formatting and cleaning up ambiguous language in the existing code turns out to be a great deal of substantive change in the actual content of the code. She only received an early draft of the proposed new changes because she is a sitting member of the ZBA and she would not have had the opportunity to realize the enormous changes proposed. She stated that all of the changes have been done without public in attendance or any published minutes of the meetings, so when permitted she attended the workshop meetings and took notes and she shared them with anyone interested. She stated that she is not much of a politician so she took care to include people that she perceived to be on both sides of the issue. She stated that she received the proposed draft on December 23 and the Town website posted it on January 16th and the Library during the following week, leaving the public less than a week to evaluate the contents of some 350 pages of Code and comparison documents before the public meeting on January 27th.

Meredith McComb stated that as of January 6th 2009, the TB of Bolton Landing and their legal Counsel have set this precedent; the TB may vote one way on the issue with public in attendance, then turn off the tape recorder, dismiss the recording secretary, wait until no one is looking and reverse the decision. She stated that this time she is the victim, as well as all of those citizens who have thanked her for her treatment of them as applicants before the Board and those who have thanked her for taking the time to dig into the applications and ask the tough questions.

Councilman Saris stated that he is not happy with the way in which their vote took place, but he does not

feel that there was any conspiracy going on. He stated that he was not aware that as part of the Organizational Meeting was going to include re-appointing members. When the resolution for the re-appointments came up it was bundled together with other re-appoints and such he wasn't sure how to handle it so he carried on with the resolution. He stated that if he were to have voted against it at that time then it would have been against everyone else bundled into that resolution as well.

Councilman Saris stated that his perception was that her term expired and they chose not to re-appoint her for another term. Meredith McComb stated that she was voted back on with that resolution and then the meeting was adjourned. Councilman Saris stated that was a legal question. He stated that his reasons for voting the way he did is not because of any specific vote or any cumulative effect of votes that she made on the ZBA or a specific complaint(s) from members of the public or mistakes that she may or may not have made or her stance on the zoning revisions.

Councilman Saris stated that he disagrees with her conspiracy theory about the zoning revisions. He stated that nothing has been done behind closed doors and this ordinance will be placed in front of the public for review. He stated that something needs to be created in order to put forth something to the public and to do that with constant public review/input would not have been productive. They have been working on it for the past 3 years and they needed to get something done so that it can be put out to public review.

Councilman Saris stated that he does not accuse any of the ZBA members for being un-objective, but he thinks as a whole the Boards need to maintain the appearance of objectivity or impartiality. He stated that they have to look at the perception of the public when they step in front of that Board. He stated that if she is going to be a very strong advocate, or activist, whom he applauds, then placement on the ZBA would not be appropriate. Meredith McComb stated that she was a strong activist in support of the Bolton Zoning Code, water quality of Lake George, Main Street businesses and of tourist industry, all of which are supported by the Comprehensive Plan. Councilman Saris stated that the LGA is a very honorable organization but he would not necessarily feel that one of their executives would be an appropriate Board member either. Meredith McComb stated that she is not an executive of any organization. Councilman Saris replied that it has almost gotten to the point where she has formed her own organization because she sends out emails, takes notes and it is a form of activism and he feels that it is inappropriate for a Board member. He stated that she is entitled to her opinion but she should not be leading the charge and that is why he decided to let the term expire.

Councilman Maranville asked Counsel Muller if the January 6th meeting was run correctly. Counsel Muller replied yes. He stated that if no further action is to be taken after the TB returns from Executive Session then it is to be stated as so on the record. On January 6th no such statement was made on the record and therefore the meeting was run appropriately. Councilman Maranville asked if you are paid by the Town of Bolton for serving on a Board are you considered personnel. Counsel replied that they are not necessarily employees of the Town but they are agents. He stated that they are volunteers that are appointed to these Boards and their payment is essentially re-imbusement for the expenses undertaken and not necessarily the time devoted.

Sally Defty stated that they essentially did not vote in public which makes it look so bad. She stated that she does not question their grounds for choosing not to re-appoint her but she would like a better explanation for why they didn't vote publicly. Counsel replied that it was public, but the reality was that it

was midnight and there was no public in attendance left to hear the vote. Sally Defty asked what came about over the course of the January 6th meeting that changed people's minds about the re-appointment. Councilman MacEwan replied that it was not something someone said or did at that meeting, this resolution was pre-scripted with other re-appointments involved and he had not read it prior to that point. He stated that there had been mention of Meredith McComb's re-appointment and questions were raised afterwards because they didn't know how to undo that part of the motion because they voted on everybody.

Councilman MacEwan stated that his decision was not based on her performance on the ZBA. He feels that she did a great job. However, he did have issues about what he was hearing about her outside of the ZBA. He stated that he had individuals come to him to discuss their issues and there were several letters on file as well. Sally Defty stated that if there was this much opposition, she thinks they could have broken into that list and publically voted then not to re-appoint her. Councilman MacEwan replied that he could have if he had been able to review the resolution before that meeting. Councilman Saris stated that the Organizational Meeting is scripted and is part of the first meeting of every year. Most times they do not look at this until that evening when they sit down to start the meeting. He stated that is 4-5 pages of script that needs to be legally enacted to make the Town run.

Supervisor Simmes stated that in her and the Town Clerk's defense that script for the Organizational Meeting has been done for the last 30 years and all TB members get copies of them. She requested that they do not say that they did not have this ahead of time to review because she handed it out and asked all TB members if they wanted any changes. Councilman Saris replied that he was not claiming that it was not available, rather that he had not seen or reviewed it prior to that meeting.

Tom Whitney stated that he is trying to understand what happened at the last meeting. He stated that he would like to thank Meredith McComb for having gotten him involved in the process to look at some of the changes proposed in the Zoning Ordinance. He stated that when public trust breaks down, or the trust of the public of a Board on how they conduct themselves, lawyers usually get involved and the whole process breaks down and they lose confidence. He stated that he is not questioning the re-appointment but he is questioning his own trust as he leaves tonight and reviews the 350 page zoning document and wonders if he should consult an attorney to feel comfortable with this document that has evolved well beyond any of the original intent. He stated that if they are going to make these kinds of changes, for public confidence, something should have triggered in their minds that taking this type of action with no public in attendance would not be appropriate. He stated that they could give all the reasons in the world why they voted the way they did, but it seems to him that they simply disagreed with her advocacy on behalf of Bolton.

Supervisor Simmes stated that she feels the TB members need to be more honest about the reasons behind their decisions. She read a letter from Mrs. McGurl which described a situation in which Meredith McComb acted in an inappropriate manner outside of the ZBA setting. When subdividing their waterfront property on Trout Lake, Meredith McComb would not listen to other individuals and she had gone to other neighbors to ask their opinion, which they understand is not part of the zoning process. Mrs. McGurl's letter stated that following the meeting they were approached by Meredith McComb at a local restaurant and she rambled on about what they should do, need to do and what she assured them they would not be allowed to do. They asked her to excuse herself, but she did not. Finally, their son left and they soon followed but Meredith McComb followed them to the door, which made her break down and

cry. Two gentlemen who had been at the meeting came over to them and stated that Meredith McComb was famous for this kind of behavior and to ignore her. She stated that they should not have had to experience such an embarrassing and upsetting situation. If she is representing Bolton on the ZBA, she is doing a poor job of it and is certainly ill-prepared in conducting herself as a professional servant of people. Apparently Meredith McComb's frequent visits to people who are objecting a project is a common thing.

Meredith McComb asked when this letter was received. Supervisor Simmes replied January 14, 2009. Meredith McComb asked if the incident occurred in 2000 or 2001. Supervisor Simmes replied that she did not know. Meredith McComb stated that her point is that they made no complaint at that time and she has not seen the letter.

Supervisor Simmes stated that she was totally in awe when they entered Executive Session and this issue came up. She had no idea that anyone had a problem with Meredith McComb sitting on the Board and she personally has no problem with her sitting. However, she would have a problem with her doing something as Mrs. McGurl is saying, if it is true. She stated that she believes that the other TB members have additional things that have prompted them as well. Counsel stated that as soon as this discussion began, they ended the Executive Session and they opened the doors to find that no one was outside and they proceeded without the actual benefit of the recording secretary to take the notes and take the action, the point of order wished to be heard and it was heard.

Councilman Saris stated that he has been honest about his reasons and he stands by his reason. He disagrees with the statements about how the zoning ordinance keeps morphing into something that it was not supposed to be. They set out to review their ordinance and to make any necessary changes, in keeping with their Comprehensive Plan. He stated that people are complaining that they only had a week to review it before the meeting, but it has not been adopted and they are continuing to work on it. They have been working on it for the past 3 years which shows there hasn't been any rush in creating this work and there won't be. Forcing people to review it over and over again when it is not ready to be adopted is counterproductive. They need to be given something to review that the Committee feels is worthy of adopting and it hasn't gotten to the point yet and the public has been asked to comment on it. He stated that he appreciates someone feeling strongly about something and their activism towards their goals, but it does not necessarily qualify them to be a good representative Board member.

With regard to procedure, Ed Zwick asked if they were operating under Robert's Rules of Order at the time the meeting stated and re-appointed Meredith McComb and when they voted to rescind the re-appointment. Counsel replied yes. Ed Zwick asked for Counsel to explain the process for a reversal under Robert's Rules of Order. Counsel replied that he has told them already exactly what happened based on his recollection, but the minutes will reflect what actually happened. His recollection is that Councilman Maranville at and in the Executive Session raised a point of order and Counsel directed the Board that if there were to be any further discussion or action on it that it would not be appropriate to do in Executive Session. He stated that not only can he not disclose what happened in Executive Session, he cannot remember. However, they immediately ended Executive Session, Supervisor Simmes indicated that she would take notes. The motion that was made was to re-appoint all the named individuals excluding the name of Meredith McComb which was seconded and acted upon. Ed Zwick asked according to Robert's Rules of Order when rescinding a motion, who can present that motion and what kind of majority vote do they need. Counsel stated that there are many additions of Robert's Rules of Order some of which

contradict the previous addition and he is not willing to split hairs over this.

Meredith McComb asked what minutes were added to the recorded minutes once they left Executive Session. Supervisor Simmes replied just vote.

Ed Zwick stated that he is concerned about the cavalier way in which the TB handled that whole process. He is not concerned that it should necessarily be Meredith McComb, but it should be someone like her who is really concerned with the general interest of the community. Supervisor Simmes stated that she has not heard any of the TB members say anything bad about her serving on the ZBA, it was actions outside of the ZBA that started this action. Ed Zwick stated that on the 7 member Board they have a retail business owner, 2 builders, one marina owner, one commercial landscaper, one developer and one unemployed. He asked if a Board filled with commercial, economy minded people is a true representation of the interest of the community. Supervisor Simmes stated that they put an ad in the paper and these are the only individuals interested in the position and asked what else are they supposed to do. Ed Zwick suggested that the 7 member Board needs to be a little more diverse to better represent the community. He stated that he researched the last 3 years, over the 33 months that he reviewed there were 206 applications brought forth to the ZBA with only 41 no votes and only one application per year was denied. He asked if that represents the general community because to him it seems like a rubber stamp and that is why he is in favor of having someone like Meredith McComb, who represents the general community and will represent the non-economy or business minded segment of the community.

Councilman Saris stated that he has served on the ZBA for 10 years and was the Chairman for 3 years. He stated that those Boards are not a rubber stamp; they put a lot of hard work and consideration into what they do. He stated that if they do a good job in this community most of the requests before those Boards will be reasonable requests and there will be no reason to deny them. He stated that as a property owner you have the right to appeal Town Ordinance because they have a lot of things in Town that were created like pre-existing homes before the Code was adopted, such as homes that are built too close to a road but they have been there for 50-100 years. These individuals are going before the Board to ask for something completely reasonable and in the spirit of the intent of the zoning in that zone and there should be no reason why the Board shouldn't approve it. He continued that there also isn't some ratio that they should be able to see in denial to judge whether the Board is doing a good job or not and the only way to make the judgment fairly is to attend all of the meetings. He stands behind those Boards and feels that they do nothing but their best for the community without any personal agenda other than the benefit of Bolton Landing.

With regard to having willing candidates for the ZBA, Meredith McComb stated that she would invite anyone to request to look at the file on the ZBA because they will find a list of people who have applied to the ZBA. She stated that the list has names crossed off there and are considered unsuitable for some reason. She stated that there are plenty that have applied but have been turned down because they were told that they were biased. Cindy Ackerle agreed. She stated that she applied and was turned down because she was sitting on the Board of the LGA and she was told that she was biased because she sat on a Board of an advocacy group. Councilman Saris restated that it is not biased, but the appearance of being biased which is inappropriate. Cindy Ackerle stated that they currently have another member that sits on their Board that is a Board member on an environmental group. Supervisor Simmes stated that since she has been Supervisor, they have only interviewed 2 candidates, both of which were put on Boards. Meredith McComb suggested that she check the list in the file for other potential candidates.

- Chris Navitsky- Lake George Waterkeeper- procedure of making determinations.

Chris Navitsky stated that on a particular application the Lake George Waterkeeper had raised questions about the application of the Zoning Code and that was not responded to at the PB. Subsequently he filed a letter with the Zoning Administrator and have yet to receive any determination on it. He asked Counsel if there is a process or method for making determinations. Counsel replied that the procedure as he sees it is that when a question has been presented to the Zoning Administrator the Zoning Administrator is obliged to answer. If the issue has some sort of controversy, legal or factual, he is often approached by the Zoning Administrator to offer some input. He stated that the policies and procedures that are in place and if enacted also include that the Town Supervisor to make sure that this Board is well aware of whatever is actually happening. He stated, that as it turns out, it is in writing which will be codified so should their question come up again, whether it is them asking or not, they will treat it and act on it as if it were precedent.

- John Gaddy- National Grid proposal for street lighting.

John Gaddy stated that he provided a copy of the summary of the correspondence between himself and Deborah Graff of National Grid. This outlines their effort to change 212 mercury vapor street lights to high pressured sodium lights in an effort to reduce light pollution. He stated that he provided a list of 5 points in which he needs to get a positive resolution on before this can be forwarded to National Grid to begin the process. He stated that this proposal will reduce the amount of energy they would be using and would change the light to a more environmentally friendly light at the expense of National Grid. Councilmember Rehm asked if he will need a resolution supporting the action. John Gaddy replied yes. Supervisor Simmes asked if they normally do 15 year lighting contracts. John Gaddy replied yes. Councilmember Rehm suggested that they moved forward with conceptual approval barring seeing the contract to see if it is appropriate. John Gaddy stated that National Grid supposedly sent the proposed contract to Town Hall for review. He stated that he believes that there is a contract on each individual light.

- Barry Kincaid- LGPC Stream Corridor Management

Barry Kincaid stated that the Lake George Property Owners Group respectfully requests that the Town Board to adopt a resolution to reject the current Stream Corridor Regulations proposed by the LGPC. The LGPC has failed to follow SS43-0107 to encourage, cooperate with, aid and assist in municipalities lying wholly or partially within the LG Park in the preparation and adoption of zoning laws or ordinances in other local legislation, prohibiting, restricting, regulating or controlling the use of real property by circumventing the Town's governing bodies in creating its own land use plan. Supervisor Simmes stated that they would be taking this issue up later in the meeting.

- Meredith McComb stated that she would like to deny that the letter from Mrs. McGurl is true for the record.

Announcements

- Supervisor Simmes read a letter from Kathie Sousa from the Catholic Church commending George Mumblow's good Samaritan efforts.
- Counsel advised that after researching he has determined that a mandatory referendum is not a requirement to sell water district land to a private individual. The board will be sending a letter to all

people in the water district for input and notifying them that we will be scheduling a public hearing for their input at our March meeting.

Counsel stated that although there is no mandatory referendum, there should be a public hearing before proceeding to closing. Supervisor Simmes stated that she believes they will be sending a letter to all of the residents in the Water District for their input. Counsel replied that is great but to meet the requirements of statute make sure that it is also publicly noticed in the newspaper.

RESOLUTION #39:

Councilmember Rehm moved, seconded by Councilman Saris to set a public hearing for selling the two surplus water district parcels to private individuals for the March 3, 2009 Town Board meeting. All in Favor. Motion Carried.

- February 12th there will be a meeting at the Town Hall with reps from RPI, WC Soil & Water, Tim Coon and Supervisor Simmes to discuss dredging the Finkle Brook delta and possibly Indian Brook delta.
- Cornell Cooperative Extension of Warren County is offering free tax return assistance for families and individuals whose household income is below \$42,000.

Public comments for the Draft Regulations for Stream Corridor Management are available on the Lake George Park Commission site. The public hearing is scheduled for 2/24/09. Public comments are being accepted until 3/15/09. It is important to know that 659 parcels in the Town of Bolton will be affected by these regs. The board will be sending a letter to those affected by these regulations. Supervisor Simmes stated that she has asked Mike White to provide a list of all of the individuals that will be affected by this so that they can notify them. She stated that it will be held at either the Holiday Inn or Fort William Henry in Lake George. Councilman Saris stated that the proposed resolution speaks for itself but people should understand that the Town of Bolton has not been invited to participate in this process. He feels that it is very important that they are involved because the Town of Bolton knows the Town of Bolton best. Supervisor Simmes stated that she finds it weird that there is some paperwork out there called the Draft Regulatory Flexibility Analysis which was obtained by someone in the public, but no Town official has been given this information.

Zandy Gabriels stated that he was able to obtain a copy but you cannot get it from the LGPC website but if you read the Times Union and follow a couple of links they have it. Zandy Gabriels asked Supervisor Simmes if she could ask how many of those 659 parcels have principal buildings on them already and how many are vacant land. He stated that they can then compare its accuracy with our list. Supervisor Simmes stated that she feels that they do not have their information correct because she has received a letter from the LGPC regarding a stream on her property but her neighbor Councilman Saris did not and he lives near the same stream.

RESOLUTION #40:

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

- >
- > WHEREAS the Lake George Park Commission (LGPC) has undertaken
- > consideration of enacting proposed rules, regulations or policies
- > entitled, "Lake George Park Stream Corridor Protection Regulations"
- > (Stream Corridor Regulations) within municipalities situate in the Lake
- > George basin, and
- >

> WHEREAS the Town of Bolton is one of several municipalities situate in
> the Lake George basin and as a municipality the Town of Bolton has
> enacted an approved Adirondack Park Agency land use ordinance, a land
> subdivision ordinance and stormwater and erosion control regulations
> which constitute the exclusive requirements for municipal zoning, land
> subdivision and stormwater and erosion control regulations in the Town
> of Bolton, and
>
> WHEREAS the Town of Bolton as a town was created and exists by virtue
> of the Constitution of the State of New York reserving to such town and
> the people residing therein all rights and privileges afforded by the
> statutory provisions of Municipal Home Rule Law, General Municipal Law
> and Town Law ,and
>
> WHEREAS the LGPC in making proposal of Stream Corridor regulations for
> the Lake George basin, including the Town of Bolton will confer and
> create LGPC jurisdiction and regulations contrary, in conflict and
> incompatible with town requirements and to date the LGPC has not
> consulted with the Town of Bolton and its elected representatives with
> respect to the town's citizenry, property owners and business entities
> as such may be adversely affected by such proposed regulations, thereby
> circumventing the citizenry of the Town of Bolton, that community and
> it's superior jurisdiction and interest as it may relate to the issue,
> and
>
> WHEREAS it is stated by Michael P. White in a Draft Regulatory
> Flexibility Analysis dated January 15, 2009 that 51.6% of all parcels in
> the Town of Bolton are affected where a 110 foot stream corridor buffer
> is greater than 20% of the total parcel area thereby adversely affecting
> a majority of parcels situate within the municipality, and
>
> WHEREAS substantial numbers of interested parties including real
> property owners and business owners with "seasonal interests" in the
> Lake George basin and numerous property rights that will be effected by
> the imposition of Stream Corridor Regulations are not adequately
> informed of the issue and potential impacts to their land-investments
> by reason of their seasonal absences, and
>
> WHEREAS the regulations as written are excessively vague, overbroad and
> unnecessarily complex placing an undue hardship and unnecessary
> regulatory burden on effected property owners, including the
> possibilities that due and proper consideration has not been given to
> the issue of a "taking" of valuable property rights without just
> compensation to the owners of affected properties, and
>
> WHEREAS there is in place a body of existing laws, rules and

> regulations properly enacted and implemented throughout the Lake George
> basin under existing permitting processes currently protecting those
> natural stream resources and stream corridors so as to substantiate that
> enactment of regulations proposed by the LGPC on the issue are
> unnecessary, and duplicate existing statutory and administrative
> protections for the same purposes, and
>
> WHEREAS in the creation and implementation of those laws enacted by the
> New York State legislature creating the LGPC the purpose thereof was
> and remains only to promote and preserve the welfare of the people,
> properties and business entities in harmony with protection of the basin
> without causing detriment thereto, and
>
> WHEREAS by its conduct and actions regarding this issue the LGPC wholly
> fails and neglects it's fundamental statutory duties to "encourage,
> cooperate with, aid, and assist municipalities lying wholly or partly
> within the Lake George park in the preparation and adoption of
> zoning laws or ordinances and other local legislation prohibiting,
> restricting, regulating, or controlling the uses of real property" by
> circumventing the Town of Bolton and other duly organized governing
> units in the Lake George basin in an attempt to create a unique LGPC
> jurisdiction in excess of it's statutory mandate and contrary to the
> superior rights provided to the Town of Bolton under Town Law, General
> Municipal Law, and Home Rule Law
>
> BE IT HERE BY RESOLVED that the Town of Bolton urges that requests that
> Lake George Park Commission suspend all continuing and further
> consideration of the enactment of any proposed Stream Corridor
> regulations in the Lake George until such time as the LGPC has
> consulted with each governing unit in the Lake George basin that will
> be affected, including the Town of Bolton and further that the Lake
> George Park Commission produce and provide to the public any and all
> empirical or scientific data that has and will be considered as
> demonstrating a public need and environmental requirement for such
> regulations and that such data and criteria considered outweighs the
> general welfare, well being and real property rights of private
> ownership in the Lake George basin, and further that the need for such
> regulations as proposed and to be implemented shall not constitute an
> uncompensated "taking" of real property rights and will not, if
> enacted, adversely and unnecessarily burden the rights of land
> ownership, the general economy or the citizenry living, vacationing and
> visiting the Lake George basin .
All in Favor. Motion Carried.

· A letter was sent to the NYS Police concerning a request that they provide the funds to offset the utility expenses for the substation we have here in Bolton. They responded that they do not have funding

available at this time for these expenses.

- Time Warner notification of possible channel changes.
- We have received copies of regulations regarding the use of the UDAG funds. The board needs to meet to set up a committee to administer the grant monies.
- Verizon has placed two new cell towers. One will give better service for the Village of Lake George and the other along the Northway from Warrensburg to Chestertown and on RT 9 from Lake George to Warrensburg.
- We have received requests for an application from the following for UDAG funding: Dan & Ellen Nichols, Art & Nicole Baker, Rob & Deb MacEwan, Rolf Ronning

Counsel requested that they move on Local Laws 1 and 2.

RESOLUTION #41

Councilmember Rehm moved, seconded by Councilman MacEwan to adopt Local Law #1 of 2009 providing for alternate membership on the Town of Bolton Planning Board. All in Favor. Motion Carried.

RESOLUTION #42

Councilman Saris moved, seconded by Councilmember Rehm to adopt Local Law #2 of 2009 providing for alternate membership on the Town of Bolton Zoning Board of Appeals. All in Favor. Motion Carried.

Supervisor Simmes stated that the recording secretary indicated that they never voted to close the public hearings for Local Laws 1 and 2. Counsel stated that they have enacted the laws and stated that they should now officially close the public hearing. Councilmember Rehm stated that they are allowed to vote during a public hearing. Counsel agreed.

RESOLUTION #43

Councilman Saris moved, seconded by Councilman MacEwan to close public hearing for Local Law #1 of 2009 Alternate Planning Board Membership to consider an amendment Section 200-5 of the Town of Bolton Zoning Ordinance providing for alternate membership on the Town of Bolton Planning Board and Local Law #2 of 2009 Alternate Zoning Board of Appeals Membership to consider an amendment Section 200-4 of the Town of Bolton Zoning Board of Appeals. All in Favor. Motion Carried.

Zoning Matters

- Timothy Harrington-

Counsel stated that Mr. Harrington is in the process of the possibility of a settlement by stipulation and Mitzi Nittmann gave him additional documentation that she would recommend be part of the stipulation. He stated that it is ongoing and he feels that it has a possibility of being solved.

- Bernard & Trish Marki

Counsel stated that he would rather not talk in specific details in public. However, it is uncertain as to the allegations of the specific code violations and that may require investigation in terms of a search, which will require some procedures.

- Harold Raven

Counsel stated that Mr. Raven and his attorney Ben Pratt were at the ZA's office this month. They did present a plan, but it is imperfect because it does not resolve all problems. Mr. Raven indicated that they

would be back with the incorporated recommendations from Pam Kenyon. Counsel stated that although Bolton is Mr. Raven's present problem, they have to comply with Bolton to avoid APA violations so he feels that they are motivated to do so. Councilmember Rehm stated that last month she had stated that if they were not done by this month they should act. Counsel stated that this is different because they have presented a plan and are trying to work with the Town to come into compliance and he feels they should give them that chance.

· Elmer Clark

Counsel stated that David Clark is working on bringing the home into compliance. Mitzi Nittmann stated that he has already covered up the basement window and he is drawing up plans for refurbishing the east deck and he intends on removing the rear porch and once the snow is gone he can fill in the cistern. Counsel stated that this could come off this list since he is practically into compliance and if he falls out of compliance again he will end up on this list again. He stated that this is a cooperative applicant. Mitzi Nittmann stated that he is having construction drawn up so that he can get a certificate of compliance and a WC building permit. Supervisor Simmes stated that as soon as that is completed she will take them off the list.

Correspondence

- Letter from Judy Budner concerning the Saddle brook subdivision and an answer to comments from one of our Councilmen.
- Letter from Helena & Richard Holod wanting to make sure that the Town is on board with protecting the environment and Bolton.
- Notices from Cate's Italian Garden and Hanson, LLC d/b/a Pumpnickel's and the Wooden Barrel that they are renewing their Liquor Licenses
- Letter from Fred Lethbridge Jr. He does not want to see more development.
- APA notification that they have approved a project for VAJ LLC located on Valley Woods Rd.
- USDA Rural Development pamphlet with financing programs for Community & Economic Development that is available in NYS
- Adirondack Park Local Government Day Conference March 24th & 25th

Committee Reports:

Councilman Saris

Town Clerk- Total Local Shares remitted- \$8,394.07 Total non-local revenue- \$140.52 Total State, County and Local Revenues \$8,534.59.

Councilmember Rehm

Recreation Dept.- Provided the Rec. Department report to all TB members. She stated that the sign-up for day camp will be at the end of March.

Seniors Center- The Tri-County United Way is distributing free smoke and carbon monoxide detectors.

Fire and Emergency Squad- On February 11, 2009 at 7pm there will be a public meeting held at the Town Hall. The Rescue Squad members will let the public know their desperate need for volunteers and what the options that are being looked at in the community to be able to provide emergency services on a reliable basis.

Councilman Maranville

Police- Patrolled 2,947 miles and used 248.6 gallons of gas. They completed a survey of the street lights in Town and identified problems in 23 street lights in a report they submitted to National Grid.

Justice- Hon. Harry Demarest took in \$2,890.00 and Hon. Ed Stewart took in \$6,435.00. Total monies forwarded to the Town of Bolton - \$9,325.00. Itemized lists are located in the Court.

With regard to the letter sent to NYS Police requesting funds for the substation, Councilman Maranville stated that he has some numbers for the utilities for the year which total approximately \$8,500/year. He stated that they need to look closely at the numbers of what they bring in ticket revenue in Town and their presence in Town. He stated that the building is a scary thing and he feels many in Town would be supportive of this. Supervisor Simmes stated that they will be pursuing it further.

Councilman MacEwan

Parks Dept.- Councilman MacEwan stated that as requested George Mumblow provided a list of work that needs to be accomplished to justify bringing Ray Chamberlain back to work. Councilman MacEwan read the list. Councilman Maranville stated that was a lot of work. Councilman MacEwan asked if they wanted to put a time line on the resolution. Supervisor Simmes stated that he comes back to work in April until October, but this past year was kept on until December. She stated that this is not a budgeted item and she is not sure where they will get the money to pay him. Councilman MacEwan suggested that they pay him out of whatever Department he does work in. Supervisor Simmes stated that she would have to talk to Donna Boggs to see where they can get the money or to see about charging his time from each department that he works in.

RESOLUTION #44:

Motion by Councilman MacEwan, seconded by Councilman Maranville to re-hire Ray Chamberlain until work has been completed. Councilmember Rehm opposed. Supervisor Simmes abstained. All others in Favor. Motion Carried.

Supervisor's Report

Receipts \$1,535,400.24 Disbursements- \$827,276.95

- Public Sector has started the process for the workplace violence program.

Old Business

- We have received the survey for Brereton Rd. We will need to schedule a meeting of the board to discuss the LG Camping issue and the Thunderbird issue.

Supervisor Simmes stated that the survey did not show any other encroachment on the Town's riparian rights. Counsel stated that Dennis Dickinson put "advance copy" on the map, which means that it is a draft. He stated that they will need to receive a final map from him because that is what they can rely on.

- Resolution to adopt the job descriptions for the ZA & ZEO.

RESOLUTION #45:

Councilmember Rehm moved, seconded by Councilman MacEwan to adopt the new job descriptions for the Zoning Administrator and Zoning Enforcement Officer. All in Favor. Motion Carried.

- Employee Handbook: by next month it will need to be adopted and used.

New Business

- Adirondack Association of Towns & Villages correspondence and a copy of a resolution in opposition to the State amending Sec 544 of the Real Property Tax law that is proposing to place a cap on state

property tax payments on Forest Preserve lands to Adirondack Towns. Supervisor Simmes requested that the Town of Bolton adopt a similar resolution and send it to our Senators and Assembly members.

RESOLUTION #46:

Councilmember Rehm moved, seconded by Councilman Saris to support the Adirondack Association of Towns & Villages position and that they are opposed to any amending of Section 544 of the Real Property Tax law that is proposing to place a cap on State property tax payments on Forest Preserve lands to Adirondack Towns. All in Favor. Motion Carried.

· Copy of letter from John Perry that due to liability concerns he has he does not believe that we should be involved with the emergency water supply on Green Island.

Supervisor Simmes stated that there is a pump in Lake George that was supposed to be used on an emergency basis. Councilman Saris stated that it would not be potable water but they could flush a toilet with it. Councilmember Rehm stated that in 1995 there was a severe drought and the reservoir was very low and the Town was worried that they would have no water. The Town engaged in discussion with the Sagamore and spent in excess of \$70,000 to put a pump station in with a line into the lake. She stated that the Town was supposed to maintain it and the State Police were supposed to dive to be sure that the pipes were clean but apparently along the way none of that has happened, but they still have their \$70,000 investment over there. She asked Zandy Gabriels if they ever renewed the contract with the Sagamore. Counsel stated that the Town sent the Sagamore several versions of the contract but they never signed. He stated that he has spoken to Ben Pratt about this issue and he has informally said that this would not be a problem and they would be interested in reinitiating that with Sagbolt LLC and it would probably be signed. Councilmember Rehm stated that she suggested to Supervisor Simmes that she contact the engineers who designed it before they proceed.

Zandy Gabriels stated that this is not potable water and is water drawn from the lake between Crown Island and Green Island. He stated that he thinks the State Police have gone out once or twice during their dives but he is not sure of when. Since it was installed it was used once in 2005. One of the issue outlined in the contract stated that the Town assumed the right and responsibilities of exercising the on/off switch for that pipe because if they put lake water into the system it can create all sorts of clean-out or chlorination problems. In 2005 the Sagamore used the pump for their toilets and possibly showers but not for drinking or cooking. One of the issues is that this was only to be used in a declared emergency and only one person can make that call, the sitting Supervisor. In 2005, it got turned off before the Supervisor said it could be turned off. He stated that if they enter into a contract with Sagbolt LLC it should be clearly outlined that the sitting Supervisor is the only one who can activate those pumps. He stated that he thinks this is why the Sagamore did not want to sign the contract because they wanted to have the ability to turn them on when necessary. In 2005 the Sagamore turned off the valve at the bridge so that the benefit from the pump was only for Green Island.

Councilman Saris stated that the drought of 1995 has shown that they may need something like this in the future. He appreciates John Perry's concern but feels that maybe he should not be the one evaluating the Town's exposure because they have Town Counsel and their insurance agency to do that for them.

Mitzi Nittmann stated that the State Police Divers are in Town so now might be a good time to ask them to check the pipe.

Supervisor Simmes stated that she will contact CT Male to find out if it is serviceable.

· Chamber of Commerce is requesting the use of Veterans Park for the Annual Ice Fishing Contest on Saturday, 2/21/2009

RESOLUTION #47:

Councilmember Rehm moved, seconded by Councilman Maranville to authorize the Chamber of Commerce to use Veterans Park for the Annual Ice Fishing Contest on Saturday, February 21, 2009. All in Favor. Motion Carried.

Zandy Gabriels stated that Norowal Marina has also recognized the need for lake access for ice fishing. The Norowal Board of Directors has completed authorization of snow plowing of the parking lot and they have public access on the east side between the beach areas. He stated that their only request is that there is no parking in between the buildings. Supervisor Simmes suggested that he tell the Chamber of Commerce of this availability. Zandy Gabriels stated that they intended on it.

· Changes have been proposed to Ordinance 39 Rules & Regulations of the Water Department
Supervisor Simmes stated that these are changes that John Perry is proposing. She suggested that they review them and wait until April to make a decision, because she feels that there is one other question or concern that John Perry has.

· DOT is requesting a resolution authorizing execution of the agreement and closing papers for a permanent easement at the entrance to Veterans Park. They are offering a settlement amount of \$1000 for this permanent easement.

RESOLUTION #48:

· Councilman Saris moved, seconded by Councilmember Rehm to authorize execution of the agreement with NYSDOT and closing papers for a permanent easement at the entrance to Veterans Park for the settlement amount of \$1000 for this permanent easement. All in Favor. Motion Carried.

· Declare surplus the 2002 F350 highway truck and send to the Sewer Dept. Declare 96 F250 Sewer truck surplus and send to the Transfer Station. The Highway Dept. still has a 93 F350 one ton dump with plow to declare surplus and would like to try and solicit "as is" bids.

RESOLUTION #49:

· Councilmember Rehm moved, seconded by Councilman Saris to 1) declare the 2002 F350 highway truck as surplus and send to Sewer Dept, 2) declare 96 F250 Sewer truck surplus and send it to the Transfer Station and 3) declare the Highway Dept. 93 F350 one ton dump with plow to surplus and solicit "as is" bids to be returned by Noon on March 3, 2009. All in Favor. Motion Carried.

· Motion to declare an emergency situation in the Town Hall. We are in the process of having specs written and going out to bid in the spring for a new heating system for the Town Hall, but in the meantime the Judge's offices and the Police Office are extremely cold. As a result we hired Highland to install propane heaters in the three offices to provide them with heat in the interim.

RESOLUTION #50:

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

Whereas, it is imperative that Town Hall employees have sufficient heat in their offices in order to be able to work and;

Whereas, it is common knowledge that heat in the Judge's offices and the Police Office have experienced adverse working conditions due to insufficient heat;

Whereas, the Town Board has declared an emergency and has authorized the installation of auxiliary heat;

Now, Therefore, be it resolved that Highland and Company for the sum of \$5,145.00 for the installation of three Rinnai heaters in the Judges' and Police offices and Amerigas under State contract will be installing the propane for the heaters.

All in Favor. Motion Carried.

- Sagbolt, LLC request for a liquor license waiver from 30-day notice period for the Sagamore Resort.

RESOLUTION #51:

Councilman Saris moved, seconded by Councilmember Rehm to approve Sagbolt, LLC request for a waiver from 30-day notice period for the Sagamore Resort. All in Favor. Motion Carried.

- Roof Extension over steps of the Town Hall

Supervisor Simmes stated that she had previously asked Don Russell to draw up some specs to put roofs over the two sets of steps. She stated after the weekend the situation had worsened and they tried to unplug the heaters which did not work, it only made it worse so they were plugged back in. She stated that 3 contractors have the specs to extend the roofs. She asked if she could be authorized to award it to the lowest bidder. She stated that she has 2 of the bids and is expecting 1 more tomorrow.

Councilmember Rehm asked if it was under \$10,000. Supervisor Simmes replied yes, well under.

RESOLUTION #52:

Councilman Saris moved, seconded by Councilman MacEwan to authorize Supervisor Simmes to award the job of the roof extensions over the Town Hall steps to the lowest bidder. All in Favor. Motion Carried.

- Request from the WC Historical Society to hold a "Mystery, Murder and Scandal in Warren County" at the Town Hall, Wednesday, September 16th from 7-8:30pm.

RESOLUTION #53:

Councilmember Rehm moved, seconded by Councilman Maranville to authorize the use of Town Hall by the WC Historical Society to hold a "Mystery, Murder and Scandal in Warren County" on Wednesday, September 16th from 7-8:30pm. All in Favor. Motion Carried.

- National Grid Conceptual approval for the street lighting.

RESOLUTION #54:

Councilmember Rehm moved, seconded by Councilman Saris to conceptually approve the arrangement with National Grid for the replacement of the street lights that John Gaddy has presented and will await the contract from National Grid to be reviewed by Town Counsel. All in Favor. Motion Carried.

Public in Attendance

Chris Navitsky, Lake George Waterkeeper, asked if the resolution that was passed on the Town's stance for the LGPC Stream Corridor Management would be made available to the public. Counsel replied yes. Chris Navitsky stated that he understands that there is a lot to this issue but it really sounds like an

advocacy issue in the document that was prepared and it appears to be one sided. The Town of Bolton has been involved in a lot of the LGPC meetings so he does not feel that it was a fair statement to say that they were not involved. With regard to duplicating existing administration regulations regarding the stream protection, he stated that the Town of Bolton has nothing on stream corridor protection. Councilmember Rehm disagreed and stated that all of the shoreline regulations say lakes, ponds, streams and the Schroon River. Councilman Maranville stated that he thought they fell under the DEC regulations. Chris Navitsky stated that they DEC does not have any regulations other than for stream crossings and they grant those more than the ZBA gives out variances.

Pay the bills:

RESOLUTION #55:

Councilman Maranville moved, seconded by Councilman MacEwan to pay the following bills:

General Fund: \$38,308.23

Highway Fund: \$26,430.88

Water Fund: \$ 2,657.99

Rogers Park Docks: \$ 9,293.80

Tourism: \$ 300.00

All in Favor. Motion Carried.

Executive Session

Supervisor Simmes stated that they needed to enter into Executive Session to discuss contract negotiations. Counsel asked if that will conclude the public forum with no further business to be conducted after the conclusion of the Executive Session. Supervisor Simmes replied no. Counsel stated that they will resume the public forum after the Executive Session.

RESOLUTION #56:

Councilman Saris moved, seconded by Councilman MacEwan to enter into Executive Session at 10:55pm.

All in Favor. Motion Carried.

RESOLUTION #57:

Councilman Saris moved, seconded by Councilman MacEwan to adjourn to regular session at 11:33pm.

All in Favor. Motion Carried.

· Insurance- Supervisor Simmes said that the Board needs to set an amount given to each employee for their reimbursable amount. Discussion followed about specific employees who fall into the retirement eligibility and what could be offered. Supervisor Simmes stated that there is supposedly better insurance for retirees but they have not received the information on that as of yet. She stated that even this will save them money.

RESOLUTION #58:

Councilmember Rehm moved, seconded by Councilman MacEwan to 1) designate Jager Flynn as their insurance broker effective March 1, 2009, 2) purchase MVP Tri-Vantage, with all of the appropriate options, 3) set up the HRA account with \$1,000/employee to cover co-pays and deductibles and 4) pay Jager Flynn a rate of \$2.50/month per employee plus \$250 administration fees. All in Favor. Motion Carried.

Schedule Workshop Meeting for February 9, 2009 at 5:00pm.

RESOLUTION #59:

Councilman MacEwan moved, seconded by Councilman Maranville to set a Workshop Meeting at the Town Hall on February 9, 2009 at 5:00pm. All in Favor. Motion Carried.

Adjourn

RESOLUTION #60:

Councilman Saris moved, seconded by Councilman MacEwan to adjourn the meeting at 11:39pm. All in Favor. Motion Carried.

Respectfully submitted by: Respectfully submitted by:

Patricia Steele Kristen MacEwan

Town Clerk Recording Secretary